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STATE OF NORTH CAROLINA

SESSION LAWS AND RESOLUTIONS

PASSED BY THE

1997 GENERAL ASSEMBLY

AT ITS

REGULAR SESSION 1997

BEGINNING ON

**WEDNESDAY, THE TWENTY-NINTH DAY OF
JANUARY, A.D. 1997**

HELD IN THE CITY OF RALEIGH

**ISSUED BY
SECRETARY OF STATE ELAINE F. MARSHALL**

PUBLISHED BY AUTHORITY

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S.B. 757

CHAPTER 442

AN ACT TO ESTABLISH ADVANCE INSTRUCTION FOR MENTAL HEALTH TREATMENT.

The General Assembly of North Carolina enacts:

Section 1. Article 3 of Chapter 122C of the General Statutes is amended by designating G.S. 122C-51 through G.S. 122C-70 as "Part 1".

Section 2. Article 3 of Chapter 122C of the General Statutes is amended by adding the following new Part to read:

"Part 2. Advance Instruction for Mental Health Treatment.

"§ 122C-71. Purpose.

(a) The General Assembly recognizes as a matter of public policy the fundamental right of an individual to control the decisions relating to the individual's medical care, and that this right may be exercised on behalf of the individual by an agent chosen by the individual.

(b) The purpose of this Part is to establish an additional, nonexclusive method for an individual to exercise the right to consent to or refuse mental health treatment when the individual lacks sufficient understanding or capacity to make or communicate mental health treatment decisions.

(c) This Part is intended and shall be construed to be consistent with the provisions of Article 3 of Chapter 32A of the General Statutes, provided that in the event of a conflict between the provisions of this Part and Article 3 of Chapter 32A, the provisions of this Part control.

"§ 122C-72. Definitions.

As used in this Part, unless the context clearly requires otherwise, the following terms have the meanings specified:

- (1) 'Advance instruction' or 'advance instruction for mental health treatment' means a written instrument, signed by two qualified witnesses, that makes a declaration of instructions, that also provides information and preferences regarding mental health treatment, and that may appoint an attorney-in-fact.
- (2) 'Attending physician' means the physician who has primary responsibility for the care and treatment of the principal.
- (3) 'Attorney-in-fact' means an adult validly appointed under G.S. 122C-75 to make mental health treatment decisions for a principal under an advance instruction for mental health treatment and also means an alternative attorney-in-fact.
- (4) 'Incapable' means that, in the opinion of a physician or eligible psychologist, the person currently lacks the capacity to make and communicate mental health treatment decisions. As used in this subdivision, the term 'eligible psychologist' has the meaning given the term in G.S. 122C-3(13b).
- (5) 'Mental health treatment' means the process of providing for the physical, emotional, psychological, and social needs of the principal for the principal's mental illness. 'Mental health treatment' includes, but is not limited to, electroconvulsive treatment (ECT), commonly referred to as 'shock treatment', treatment of mental illness with psychotropic medication, and

admission to and retention in a facility for care or treatment of mental illness.

(6) 'Principal' means the person making the advance instruction.

(7) 'Qualified witness' means a witness who affirms that the principal is personally known to the witness, that the principal signed or acknowledged the principal's signature on the advance instruction in the presence of the witness, that the witness believes the principal to be of sound mind and not to be under duress, fraud, or undue influence, and that the witness is not:

- a. The attending physician or mental health service provider or a relative of the physician or provider; or
- b. An owner, operator, or relative of an owner or operator of a health care facility in which the principal is a patient or resident.

"§ 122C-73. Scope, use, and authority of advance instruction for mental health treatment.

(a) Any adult of sound mind may make an advance instruction regarding mental health treatment. The advance instruction may include consent to or refusal of mental health treatment. The advance instruction may also appoint an attorney-in-fact.

(b) An advance instruction may include, but is not limited to, the names and telephone numbers of individuals to be contacted in case of mental health crisis, situations that may cause the principal to experience a mental health crisis, responses that may assist the principal to remain in the principal's home during a mental health crisis, the types of assistance that may help stabilize the principal if it becomes necessary to enter a facility, and medications that the principal is taking or has taken in the past and the effects of those medications.

(c) A person shall not be required to execute or to refrain from executing an advance instruction as a condition for insurance coverage, as a condition for receiving mental or physical health services, as a condition for receiving privileges while in a facility, or as a condition of discharge from a facility.

(d) A principal may nominate, by advance instruction for mental health treatment, the guardian of the person of the principal if a guardianship proceeding is thereafter commenced. The court shall make its appointment in accordance with the principal's most recent nomination in an unrevoked advance instruction for mental health treatment, except for good cause shown.

(e) If, following the execution of an advance instruction for mental health treatment, a court of competent jurisdiction appoints a guardian of the person of the principal, or a general guardian with powers over the person of the principal, the advance instruction for mental health treatment shall remain in effect and shall be superior to the powers and duties of the guardian of the person with respect to mental health treatment covered under the advance instruction.

(f) An advance instruction for mental health treatment may be combined with or incorporated into a health care power of attorney or general power of attorney that is executed in accordance with the requirements of Chapter 32A of the General Statutes.

"§ 122C-74. Effectiveness and duration; revocation.

(a) A validly executed advance instruction becomes effective when it is delivered to the principal's physician or other mental health treatment provider and remains valid until revoked or expired. The physician or provider shall act in accordance with an advance instruction when the principal has been determined to be incapable. The physician or provider shall continue to obtain the principal's informed consent to all mental health treatment decisions as required by law.

(b) Upon being presented with an advance instruction, a physician or other provider shall make the advance instruction a part of the principal's medical record. When acting under authority of an advance instruction, a physician or provider shall comply with it to the fullest extent possible, unless compliance is not consistent with:

- (1) Best medical practice to benefit the principal;
- (2) The availability of treatments requested; and
- (3) Applicable law.

If the physician or other provider is unwilling at any time to comply with any part or parts of an advance instruction for one or more of the reasons set out in subdivisions (1) through (3) of this subsection, the physician or provider shall promptly notify the principal and, if applicable, the attorney-in-fact, and shall document the reason for not complying with the advance instruction and shall document the notification in the principal's medical record.

(c) Except as provided in subsection (b) of this section, the physician or provider may subject the principal to mental health treatment in a manner contrary to the principal's instructions as expressed in an advance instruction for mental health treatment only:

- (1) If the principal is committed to a 24-hour facility pursuant to Article 5 of G.S. 122C and treatment is authorized in compliance with G.S. 122C-57 and administrative rule; or
- (2) In cases of emergency endangering life or health.

(d) An advance instruction does not limit any authority provided in Article 5 of G.S. 122C either to take a person into custody, or to admit, retain, or treat a person in a facility.

(e) An advance instruction for mental health treatment continues in effect for a period of two years, unless revoked. An advance instruction may be revoked in whole or in part at any time by the principal if the principal is capable. A revocation is effective when a capable principal communicates the revocation to the attending physician or other provider. The attending physician or other provider shall note the revocation as part of the principal's medical record. The authority of a named attorney-in-fact and any alternative attorney-in-fact named in the advance instruction continues in effect as long as the advance instruction appointing the attorney-in-fact is in effect or until the attorney-in-fact has withdrawn.

(f) A physician or provider who administers or does not administer mental health treatment according to and in good faith reliance upon the validity of an advance instruction is not subject to criminal prosecution, civil liability, or professional disciplinary action resulting from a subsequent finding of an advance instruction's invalidity.

"§ 122C-75. Scope of authority of attorney-in-fact; powers and duties; limitation on liability.

(a) An advance instruction may designate a competent adult to act as attorney-in-fact to make decisions about mental health treatment. An alternative attorney-in-fact may also be designated to act as attorney-in-fact if the original designee is unable or unwilling to act at any time. An attorney-in-fact who has accepted the appointment in writing may make decisions about mental health treatment on behalf of the principal only when the principal is incapable. The decisions shall be consistent with any desires the principal has expressed in the advance instruction.

(b) None of the following may serve as attorney-in-fact:

(1) The attending physician or mental health service provider or an employee of the physician or provider, if the physician, provider, or employee is unrelated to the principal by blood, marriage, or adoption.

(2) An owner, operator, or employee of a health care facility in which the principal is a patient or resident, if the owner, operator, or employee is unrelated to the principal by blood, marriage, or adoption.

(c) The attorney-in-fact shall not have authority to make mental health treatment decisions unless the principal is incapable.

(d) The attorney-in-fact is not, as a result of acting in that capacity, personally liable for the cost of treatment provided to the principal.

(e) Except to the extent the right is limited by the advance instruction or any federal law, an attorney-in-fact has the same right as the principal to receive information regarding the proposed mental health treatment and to receive, review, and consent to disclosure of medical records relating to that treatment. This right of access does not waive any evidentiary privilege.

(f) In exercising authority under the advance instruction, the attorney-in-fact shall act consistently with the desires of the principal as expressed in the advance instruction. If the principal's desires are not expressed in the advance instruction and are not otherwise known by the attorney-in-fact, the attorney-in-fact shall act in what the attorney-in-fact in good faith believes to be the manner in which the principal would act if the principal was not incapable.

(g) The appointment of an attorney-in-fact shall not revoke, restrict, or otherwise affect any nonmental health treatment powers granted by the principal to a health care agent pursuant to a health care power of attorney or attorney-in-fact pursuant to a general power of attorney; provided that the mental health treatment powers granted to the attorney-in-fact shall be superior to any similar powers granted by the principal to a health care agent pursuant to a health care power of attorney or an attorney-in-fact pursuant to a general power of attorney.

(h) An attorney-in-fact is not subject to criminal prosecution, civil liability, or professional disciplinary action for any action taken in good faith pursuant to an advance instruction for mental health treatment.

(i) An attorney-in-fact may withdraw by giving notice to the principal. If a principal is incapable, the attorney-in-fact may withdraw by giving notice

to the attending physician or provider. The attending physician or provider shall note the withdrawal as part of the principal's medical record.

(j) A person who has withdrawn under the provision of subsection (i) of this section may rescind the withdrawal by executing an acceptance after the date of the withdrawal. The acceptance shall be in the same or similar form as provided for in G.S. 122C-77 for accepting an appointment. A person who rescinds a withdrawal shall give notice to the principal if the principal is capable or to the principal's health care provider if the principal is incapable.

"§ 122C-76. Penalty.

It is a Class 2 misdemeanor for a person, without authorization of the principal, willfully to alter, forge, conceal, or destroy an instrument, the reinstatement or revocation of an instrument, or any other evidence or document reflecting the principal's desires and interests, with the intent or effect of affecting a mental health treatment decision.

"§ 122C-77. Statutory form for advance instruction for mental health treatment.

The use of the following or similar form in the creation of an advance instruction for mental health treatment is lawful, and when used, it shall be construed in accordance with the provisions of this Article.

'ADVANCE INSTRUCTION FOR MENTAL HEALTH TREATMENT

I, _____, being an adult of sound mind, willfully and voluntarily make this advance instruction for mental health treatment to be followed if it is determined by a physician or eligible psychologist that my ability to receive and evaluate information effectively or communicate decisions is impaired to such an extent that I lack the capacity to refuse or consent to mental health treatment. 'Mental health treatment' means the process of providing for the physical, emotional, psychological, and social needs of the principal. 'Mental health treatment' includes electroconvulsive treatment (ECT), commonly referred to as 'shock treatment', treatment of mental illness with psychotropic medication, and admission to and retention in a facility for care or treatment of mental illness.

I understand that psychoactive medications and electroconvulsive treatment (ECT) (commonly referred to as 'shock treatment') may not be administered without my express and informed written consent or, if I am incapable of giving my informed consent, the express and informed written consent of my legally responsible person, health care agent named pursuant to a valid health care power of attorney, or attorney-in-fact named pursuant to a valid advance instruction for mental health treatment, as required under G.S. 122C-57.

I understand that I may become incapable of giving or withholding informed consent for mental health treatment due to the symptoms of a diagnosed mental disorder. These symptoms may include:

PSYCHOACTIVE MEDICATIONS

If I become incapable of giving or withholding informed consent for mental health treatment, my instructions regarding psychoactive medications are as follows:

I consent to the administration of the following medications:

I do not consent to the administration of the following medications:

Conditions or limitations:

ADMISSION TO AND RETENTION IN FACILITY

If I become incapable of giving or withholding informed consent for mental health treatment, my instructions regarding admission to and retention in a health care facility for mental health treatment are as follows:

I consent to being admitted to a health care facility for mental health treatment.

My facility preference is

I do not consent to being admitted to a health care facility for mental health treatment.

This advance instruction cannot, by law, provide consent to retain me in a facility for more than 10 days.

Conditions or limitations:

ADDITIONAL INSTRUCTIONS

These instructions shall apply during the entire length of my incapacity.
In case of mental health crisis, please contact:

1. Name:

Home Address:

Home Telephone Number: Work Telephone Number:

Relationship to Me:

2. Name:

Home Address:

Home Telephone Number: Work Telephone Number:

Relationship to Me:

3. My Physician:

Name:

Telephone Number:

4. My Therapist:

Name:

Telephone Number:

The following may cause me to experience a mental health crisis:

The following may help me avoid a hospitalization:

I generally react to being hospitalized as follows:

Staff of the hospital or crisis unit can help me by doing the following:

I give permission for the following person or people to visit me:

Instructions concerning any other medical interventions, such as electroconvulsive (ECT) treatment (commonly referred to as 'shock treatment'):

Other instructions:

I have attached an additional sheet of instructions to be followed and considered part of this advance instruction.

ATTORNEY-IN-FACT

I hereby appoint:

Name:

Home Address:

Home Telephone Number:

Work Telephone Number:

to act as my attorney-in-fact to make decisions regarding my mental health treatment if I become incapable of giving or withholding informed consent for that treatment.

If the person named above refuses or is unable to act on my behalf, or if I revoke that person's authority to act as my attorney-in-fact, I authorize the following person to act as my attorney-in-fact:

Name:

Home Address:

Home Telephone Number:

Work Telephone Number:

My attorney-in-fact is authorized to make decisions that are consistent with the instructions I have expressed in this advance instruction or, if not expressed, as are otherwise known by my attorney-in-fact, my attorney-in-fact is to act in what he or she believes to be my best interests.

If it becomes necessary for the court to appoint a guardian for me, I hereby nominate my attorney-in-fact to serve in that capacity.

By signing here, I indicate that I am mentally alert and competent, fully informed as to the contents of this document, and understand the full import of this grant of powers to my attorney-in-fact.

Signature of Principal

Date

AFFIRMATION OF WITNESSES

We affirm that the principal is personally known to us, that the principal signed or acknowledged the principal's signature on this advance instruction

for mental health treatment in our presence, that the principal appears to be of sound mind and not under duress, fraud, or undue influence, and that neither of us is:

A person appointed as an attorney-in-fact by this document;

The principal's attending physician or mental health service provider or a relative of the physician or provider;

The owner, operator, or relative of an owner or operator of a facility in which the principal is a patient or resident; or

A person related to the principal by blood, marriage, or adoption.

Witnessed by:

Witness:

Date:

Witness:

Date:

STATE OF NORTH CAROLINA

COUNTY OF

ACCEPTANCE OF APPOINTMENT AS ATTORNEY-IN-FACT

I accept this appointment and agree to serve as attorney-in-fact to make decisions about mental health treatment for the principal. I understand that I have a duty to act consistent with the desires of the principal as expressed in this appointment. I understand that this document gives me authority to make decisions about mental health treatment only while the principal is incapable as determined by a qualified crisis services professional and a physician or eligible psychologist. I understand that the principal may revoke this advance instruction in whole or in part at any time and in any manner when the principal is not incapable.

Signature of Attorney-in-fact

Date

Signature of Alternative Attorney-in-fact

Date

Section 3. G.S. 122C-57 reads as rewritten:

"§ 122C-57. Right to treatment and consent to treatment.

(a) Each client who is admitted to and is receiving services from a facility has the right to receive age-appropriate treatment for mental health, mental retardation, and substance abuse illness or disability. Each client within 30 days of admission to a facility shall have an individual written treatment or habilitation plan implemented by the facility. The client and ~~his~~ the client's legally responsible person shall be informed in ~~an~~ advance of the potential risks and alleged benefits of the treatment choices.

(b) Each client has the right to be free from unnecessary or excessive medication. Medication shall not be used for punishment, discipline, or staff convenience.

(c) Medication shall be administered in accordance with accepted medical standards and only upon the order of a physician as documented in the client's record.

(d) Each voluntarily admitted ~~client or his~~ client, the client's legally responsible ~~person~~ person, a health care agent named pursuant to a valid health care power of attorney, or an attorney-in-fact named pursuant to a valid advance instruction for mental health treatment has the right to consent to or refuse any treatment offered by the facility. Consent may be withdrawn

at any time by the person who gave the consent. If treatment is refused, the qualified professional shall determine whether treatment in some other modality is possible. If all appropriate treatment modalities are refused, the voluntarily admitted client may be discharged. In an emergency, a voluntarily admitted client may be administered treatment or medication, other than those specified in subsection (f) of this section, despite the refusal of the ~~client or his client~~, the client's legally responsible person, person, a health care agent named pursuant to a valid health care power of attorney, or an attorney-in-fact named pursuant to a valid advance instruction for mental health treatment. The Commission may adopt rules to provide a procedure to be followed when a voluntarily admitted client refuses treatment.

(e) In the case of an involuntarily committed client, treatment measures other than those requiring express written consent as specified in subsection (f) of this section may be given despite the refusal of the ~~client or his client~~, the client's legally responsible person, person, a health care agent named pursuant to a valid health care power of attorney, or an attorney-in-fact named pursuant to a valid advance instruction for mental health treatment in the event of an emergency or when consideration of side effects related to the specific treatment measure is given and in the professional judgment, as documented in the client's record, of the treating physician and a second physician, who is either the director of clinical services of the facility, or ~~his~~ the director's designee, either:

- (1) The client, without the benefit of the specific treatment measure, is incapable of participating in any available treatment plan which will give ~~him~~ the client a realistic opportunity of improving ~~his~~ the client's condition;
- (2) There is, without the benefit of the specific treatment measure, a significant possibility that the client will harm ~~himself~~ or others before improvement of ~~his~~ the client's condition is realized.

(f) Treatment involving electroshock therapy, the use of experimental drugs or procedures, or surgery other than emergency surgery may not be given without the express and informed written consent of the ~~client or his client~~, the client's legally responsible person, person, a health care agent named pursuant to a valid health care power of attorney, or an attorney-in-fact named pursuant to a valid advance instruction for mental health treatment. This consent may be withdrawn at any time by the person who gave the consent. The Commission may adopt rules specifying other therapeutic and diagnostic procedures that require the express and informed written consent of the ~~client or his client~~, the client's legally responsible person, person, a health care agent named pursuant to a valid health care power of attorney, or an attorney-in-fact named pursuant to a valid advance instruction for mental health treatment prior to their initiation."

Section 4. This act becomes effective January 1, 1998.

In the General Assembly read three times and ratified this the 19th day of August, 1997.

Became law upon approval of the Governor at 10:24 a.m. on the 28th day of August, 1997.

AN ACT TO MAKE APPROPRIATIONS FOR CURRENT OPERATIONS AND FOR CAPITAL IMPROVEMENTS FOR STATE DEPARTMENTS, INSTITUTIONS, AND AGENCIES, AND FOR OTHER PURPOSES.

The General Assembly of North Carolina enacts:

PART I. INTRODUCTION AND TITLE OF ACT

INTRODUCTION

Section 1. The appropriations made in this act are for maximum amounts necessary to provide the services and accomplish the purposes described in the budget. Savings shall be effected where the total amounts appropriated are not required to perform these services and accomplish these purposes and, except as allowed by the Executive Budget Act, or this act, the savings shall revert to the appropriate fund at the end of each fiscal year.

TITLE OF ACT

Section 1.1. This act shall be known as "The Current Operations and Capital Improvements Appropriations Act of 1997."

PART II. CURRENT OPERATIONS/GENERAL FUND

Section 2. Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated are made for the biennium ending June 30, 1999, according to the following schedule:

<u>Current Operations - General Fund</u>	<u>1997-98</u>	<u>1998-99</u>
General Assembly	\$ 31,226,277	\$ 34,642,598
Judicial Department	327,814,503	327,102,308
Office of the Governor		
01. Office of the Governor	5,232,934	5,150,352
02. Office of State Budget and Management	13,923,220	10,930,838
03. Office of State Planning	1,802,450	1,815,850
04. Housing Finance Agency	7,300,000	2,300,000
Office of the Lieutenant Governor	609,230	609,390
Department of Secretary of State	6,553,012	5,310,680
Department of State Auditor	10,184,864	10,016,613

Department of State Treasurer	18,890,311	18,872,768
Department of Public Education	4,510,318,741	4,493,194,418
Department of Justice	68,842,172	66,765,852
Department of Administration	57,334,144	57,814,012
Department of Agriculture and Consumer Services	51,089,660	49,822,632
Department of Labor	15,917,134	15,828,463
Department of Insurance	24,184,863	24,086,190
Department of Transportation	10,609,854	11,246,445
Department of Environment, Health, and Natural Resources	287,546,128	254,633,571
Office of Administrative Hearings	2,357,389	2,357,389
Rules Review Commission	521,892	273,441
Department of Human Resources		
01. Office of the Secretary	37,256,324	33,022,064
02. Division of Aging	24,613,916	23,610,127
03. Division of Child Development	168,572,257	171,638,076
04. Division of Services for the Deaf and Hard of Hearing	27,843,994	27,797,823
05. Division of Social Services	179,223,588	184,413,623
06. Division of Medical Assistance	1,170,658,044	1,387,538,513
07. Division of Services for the Blind	15,317,973	15,335,955
08. Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	528,512,951	550,619,886
09. Division of Facility Services	9,080,211	8,981,543
10. Division of Vocational Rehabilitation Services	33,034,755	32,834,876
11. Division of Youth Services	87,956,421	89,415,373
Total Department of Human Resources	2,282,070,434	2,525,207,859
Department of Correction	823,126,067	867,817,472
Department of Commerce		
01. Commerce	47,174,494	38,577,339
02. Biotechnology Center	16,164,396	7,664,396
03. MCNC	4,500,000	2,500,000

04. Rural Economic Development Center	7,270,000	3,920,000
05. State Aid to non-State Entities	12,375,000	2,000,000
Department of Revenue	67,717,995	68,746,867
Department of Cultural Resources	65,279,672	56,053,016
Department of Crime Control and Public Safety	33,668,542	33,720,830
Office of the State Controller	15,892,773	10,705,706
University of North Carolina - Board of Governors		
01. General Administration	37,443,621	37,490,589
02. University Institutional Programs	75,802,073	78,742,189
03. Related Educational Programs	66,753,509	68,955,374
04. University of North Carolina at Chapel Hill		
a. Academic Affairs	162,467,906	164,296,136
b. Health Affairs	132,016,759	132,683,647
c. Area Health Education Centers	38,509,297	38,490,957
05. North Carolina State University at Raleigh		
a. Academic Affairs	211,354,779	211,818,650
b. Agricultural Research Service	41,079,652	41,103,356
c. Cooperative Extension Service	32,591,088	32,583,657
06. University of North Carolina at Greensboro	62,615,773	63,259,089
07. University of North Carolina at Charlotte	68,572,932	69,123,675
08. University of North Carolina at Asheville	20,148,640	20,203,241
09. University of North Carolina at Wilmington	38,963,548	39,371,864
10. East Carolina University		
a. Academic Affairs	85,275,602	85,913,647
b. Division of Health Affairs	41,088,406	41,131,370
11. North Carolina Agricultural and Technical State University	49,636,690	50,003,439
12. Western Carolina University	43,611,199	43,669,689
13. Appalachian State University	62,165,987	62,468,839
14. The University of North Carolina at Pembroke	18,657,889	18,532,989
15. Winston-Salem State University	20,085,918	20,100,137

16. Elizabeth City State University	18,063,568	18,080,687
17. Fayetteville State University	23,655,086	23,823,586
18. North Carolina Central University	35,630,746	36,325,468
19. North Carolina School of the Arts	11,842,424	11,889,783
20. North Carolina School of Science and Mathematics	9,519,375	9,582,725
21. UNC Hospitals at Chapel Hill	35,615,701	35,615,701
Total University of North Carolina - Board of Governors	1,443,168,168	1,455,260,484
Department of Community Colleges	517,690,489	504,200,909
State Board of Elections	1,552,787	2,135,381
Contingency and Emergency	1,125,000	1,125,000
Reserve for Compensation Increase	344,716,757	343,409,871
Retirement Rate Adjustment	(20,331,500)	-
Reserve for Salary Adjustments	9,073,829	9,573,829
Debt Service	117,326,552	205,373,699
Reserve for Structured Sentencing	400,000	400,000
Postage Reduction	(300,000)	(300,000)
Debt Service - Federal	1,155,948	1,155,948
GRAND TOTAL CURRENT OPERATIONS --		
GENERAL FUND	\$11,243,076,181	\$11,532,022,416

PART III. CURRENT OPERATIONS AND EXPANSION/HIGHWAY FUND

Section 3. Appropriations from the Highway Fund of the State for the maintenance and operation of the Department of Transportation, and for other purposes as enumerated, are made for the biennium ending June 30, 1999, according to the following schedule:

Current Operations - Highway Fund	1997-98	1998-99
Department of Transportation		
01. Administration	\$ 57,934,614	\$ 58,109,718
02. Operations	34,667,278	34,723,375
03. Construction and Maintenance		

a.	Construction		
	(01) Primary Construction	-	-
	(02) Secondary Construction	78,620,024	83,283,000
	(03) Urban Construction	14,000,000	14,000,000
	(04) Access and Public Service Roads	2,000,000	2,000,000
	(05) Discretionary Fund	10,000,000	10,000,000
	(06) Spot Safety Construction	9,100,000	9,100,000
b.	State Funds to Match Federal Highway Aid	12,158,062	36,112,802
c.	State Maintenance	453,235,320	441,395,548
d.	Ferry Operations	18,098,290	18,098,290
e.	Capital Improvements	12,100,000	0
f.	State Aid to Municipalities	78,620,024	83,283,000
g.	State Aid for Public Transportation & Railroads	42,846,921	29,446,921
h.	OSHA - State	925,000	425,000
04.	Governor's Highway Safety Program	311,609	312,080
05.	Division of Motor Vehicles	89,007,931	89,071,677
06.	Reserves and Transfers	238,696,226	235,264,326
GRAND TOTAL CURRENT OPERATIONS AND EXPANSION		\$1,152,321,299	\$1,144,625,737

PART IV. HIGHWAY TRUST FUND

Section 4. Appropriations from the Highway Trust Fund are made for the fiscal biennium ending June 30, 1999, according to the following schedule:

Highway Trust Fund	1997-98	1998-99
01. Intrastate System	\$381,880,586	\$397,487,432
02. Secondary Roads Construction	71,497,038	73,700,275
03. Urban Loops	154,416,605	160,727,363
04. State Aid - Municipalities	40,068,181	41,705,703
05. Program Administration	25,918,895	27,072,575
06. Transfer to General Fund	170,000,000	170,000,000
GRAND TOTAL - HIGHWAY TRUST FUND	\$843,781,305	\$870,693,348

PART V. BLOCK GRANT FUNDS

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

DHR BLOCK GRANT PROVISIONS

Section 5. (a) Appropriations from federal block grant funds are made for the fiscal year ending June 30, 1998, according to the following schedule:

COMMUNITY SERVICES BLOCK GRANT

01. Community Action Agencies	\$ 11,546,034
02. Limited Purpose Agencies	641,446
03. Department of Human Resources to administer and monitor the activities of the Community Services Block Grant	641,446
TOTAL COMMUNITY SERVICES BLOCK GRANT	\$ 12,828,926
SOCIAL SERVICES BLOCK GRANT	
01. County departments of social services	\$ 30,395,663
02. Allocation for in-home services provided by county departments of social services	2,101,113
03. Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	4,764,124
04. Division of Services for the Blind	3,205,711
05. Division of Youth Services	950,674
06. Division of Facility Services	343,341
07. Division of Aging - Home and Community Care Block Grant	1,915,234
08. Day care services	13,853,152
09. Division of Vocational Rehabilitation - United Cerebral Palsy	71,484
10. State administration	1,954,237
11. Child Medical Evaluation Program	238,321
12. Adult day care services	2,255,301
13. County departments of social services for child abuse/prevention and permanency planning	394,841
14. Transfer to Preventive Health Block Grant for emergency medical services	213,128

15. Allocation to Preventive Health Block Grant for AIDS education, counseling, and testing	66,939
16. Transfer to Department of Administration for the N.C. Commission of Indian Affairs In-Home Services Program for the elderly	203,198
17. Division of Vocational Rehabilitation - Easter Seals Society	116,779
18. UNC-CH CARES Program for training and consultation services	247,920
19. Transfer to Department of Environment, Health, and Natural Resources for the Adolescent Pregnancy Prevention Program	239,261
20. Office of the Secretary - Office of Economic Opportunity for N.C. Senior Citizens' Federation for outreach services to low-income elderly persons	41,302
21. County departments of social services for child welfare improvements	2,211,687
22. Division of Mental Health, Developmental Disabilities, and Substance Abuse Services for juvenile offenders	1,182,280
TOTAL SOCIAL SERVICES BLOCK GRANT	\$ 66,965,690
LOW-INCOME ENERGY BLOCK GRANT	
01. Energy Assistance Programs	\$ 6,284,055
02. Crisis Intervention	6,393,661
03. Administration	1,428,386
04. Weatherization Program	4,128,479
05. Indian Affairs	33,022
TOTAL LOW-INCOME ENERGY BLOCK GRANT	\$ 18,267,603
MENTAL HEALTH SERVICES BLOCK GRANT	
01. Provision of community-based	

services in accordance with the
Mental Health Study Commission's
Adult Severe and Persistently
Mentally Ill Plan

\$ 3,794,179

02. Provision of community-based
services in accordance with the
Mental Health Study Commission's
Child Mental Health Plan

1,819,931

03. Administration

624,231

TOTAL MENTAL HEALTH SERVICES BLOCK GRANT \$ 6,238,341

**SUBSTANCE ABUSE PREVENTION
AND TREATMENT BLOCK GRANT**

01. Provision of community-based
alcohol and drug abuse services,
tuberculosis services, and services
provided by the Alcohol, Drug Abuse
Treatment Centers

\$ 10,935,939

02. Continuation of services for
pregnant women and women
with dependent children

5,060,076

03. Continuation and expansion of
services to IV drug abusers and others
at risk for HIV diseases

4,836,407

04. Provision of services in accordance with
the Mental Health Study Commission's
Child and Adolescent Alcohol and Other
Drug Abuse Plan

5,964,093

05. Services for former SSI recipients

1,123,757

06. Gender specific services and Employee
Assistance Program services for Work First
recipients

893,811

07. Juvenile offender services and substance
abuse pilot

300,000

08. Administration

1,841,742

**TOTAL SUBSTANCE ABUSE PREVENTION
AND TREATMENT BLOCK GRANT**

\$ 30,955,825

CHILD CARE AND DEVELOPMENT BLOCK GRANT

01. Child care services	\$ 17,581,167
02. Administrative expenses and quality and availability initiatives	488,366
03. Before and After School Child Care Programs and Early Childhood Development Programs	1,750,000
04. Quality improvement activities	740,000

**TOTAL CHILD CARE AND DEVELOPMENT
BLOCK GRANT****\$ 20,559,533****CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT**

01. Child care subsidies	\$ 99,845,334
02. Quality and availability initiatives	4,388,806
03. Administrative expenses	5,486,007
04. Transfer from TANF Block Grant for child care subsidies and support	5,599,759
05. Transfer from TANF Block Grant for the development of child care centers at community colleges	500,000

**TOTAL CHILD CARE AND DEVELOPMENT FUND
BLOCK GRANT****\$115,819,906****TEMPORARY ASSISTANCE TO NEEDY FAMILIES
(TANF) BLOCK GRANT**

01. Work First Cash Assistance/Block Grants to county departments of social services	\$302,029,076
02. Transfer to Child Care and Development Fund for development of child care centers at community colleges	500,000
03. Transfer to the Child Care and Development Fund for Work First child care subsidies	5,599,759
04. Allocation to the Division of Mental	

Health, Developmental Disabilities, and Substance Abuse Services for Work First substance abuse treatment and testing services	3,000,000
05. Allocation to the Division of Social Services for evaluation	400,000
06. Allocation to the Division of Social Services for State and county staff development	500,000
07. Allocation to the Department of Environment, Health, and Natural Resources for the reduction of out-of-wedlock births	1,600,000
08. Allocation to the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services for screening, diagnostic, and counseling services related to substance abuse services for Work First participants	2,300,000
09. Transfer to the Social Services Block Grant for substance abuse services for juveniles	1,182,280
10. Transfer to the Social Services Block Grant to establish the Special Children Adoption Fund	300,000
TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) BLOCK GRANT	\$317,411,115

(b) Decreases in Federal Fund Availability Except the TANF Block Grant

If federal funds are reduced below the amounts specified above after the effective date of this act, then every program in each of the federal block grants listed above shall be reduced by equal percentages to total the reduction in federal funds.

(c) Increases in Federal Fund Availability - Block Grant Funds Except the Social Services Block Grant, the TANF Block Grant, and the Child Care and Development Fund Block Grant

Any block grant funds appropriated by the United States Congress in addition to the funds specified in this act shall be expended by the Department of Human Resources, provided that the resultant increases are in accordance with federal block grant requirements, by allocating the additional funds for direct services only among the programs funded in this section.

(d) Increases in Federal Fund Availability - Social Services Block Grant

Any block grant funds appropriated by the United States Congress in addition to the funds specified in this act shall be expended by the Department of Human Resources, provided the resultant increases are in accordance with federal block grant requirements, as follows:

- (1) Fifty percent (50%) of the funds shall be allocated to the county departments of social services for mandatory services; and
- (2) The remaining fifty percent (50%) shall be allocated for direct services only among the programs funded in this section.

All these budgeted increases shall be reported to the members of the House and Senate Appropriations Subcommittees on Human Resources and to the Fiscal Research Division.

(e) Of the funds appropriated in this act to the Department of Human Resources, Division of Social Services, the sum of one million three hundred thousand dollars (\$1,300,000) for the 1997-98 fiscal year and the sum of one million three hundred thousand dollars (\$1,300,000) for the 1998-99 fiscal year shall be allocated to county departments of social services for hiring or contracting for additional child protective services, foster care, and adoption worker positions created after this act becomes law based upon a formula which takes into consideration the number of child protective services, foster care, and adoption cases, and child protective services, foster care, and adoption workers necessary to meet recommended standards adopted by the North Carolina Association of County Directors of Social Services. No local match shall be required as a condition for receipt of these funds.

(f) There is established in the Department of Human Resources, Division of Social Services, a Special Children Adoption Fund. The purpose of the fund is to provide funds for adoptive placements of children described in G.S. 108A-50 in foster care above those funds that participating licensed public and private adoption agencies can provide with existing resources.

Of the funds appropriated in this act to the Department of Human Resources, Special Children Adoption Fund, the sum of nine hundred eleven thousand six hundred eighty-seven dollars (\$911,687) for the 1997-98 fiscal year and the sum of nine hundred eleven thousand six hundred eighty-seven dollars (\$911,687) for the 1998-99 fiscal year shall be used to implement this subsection. Of the monies in the Special Children Adoption Fund, the Department shall award a minimum of four hundred thousand dollars (\$400,000) to licensed private adoption agencies. The Department of Human Resources, Division of Social Services, in consultation with the North Carolina Association of County Directors of Social Services and representatives of licensed private adoption agencies, shall develop guidelines for the awarding of funds to licensed public and private adoption agencies upon successful placement for adoption of children described in G.S. 108A-50 and in foster care. No local match shall be required as a condition for receipt of these funds.

The Department of Human Resources, Division of Social Services, shall report by May 1, 1998, to the House and Senate Appropriations

Subcommittees on Human Resources on the use of funds allocated in this subsection and the number of children placed.

(g) The Department of Human Resources, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall consult with the Department of Human Resources, Division of Youth Services, the Administrative Office of the Courts, local juvenile court counselors, and local area mental health programs on the expenditure of the funds allocated to the Department of Human Resources from the Social Services Block Grant to ensure that those funds are used for substance abuse services for juveniles.

(h) Funding for the Weatherization Program from the Low-Income Energy Block Grant is contingent upon approval of a federal waiver to increase funding. In the event the federal waiver is not approved, the funds appropriated for the Weatherization Program will be reduced to fifteen percent (15%) of the Block Grant, and excess funds will be transferred to the Crisis Intervention Program.

(i) Increases in Federal Fund Availability - Child Care and Development Fund Block Grant

The Child Care and Development Fund Block Grant funds appropriated by the United States Congress in addition to the funds specified in this act shall be expended by the Department of Human Resources, provided the resultant increases are in accordance with federal block grant requirements and are within the scope of the block grant plan approved by the General Assembly.

(j) If funds appropriated through the Child Care and Development Fund, which includes the Child Care and Development Block Grant, for any program cannot be obligated or spent in that program within the obligation or liquidation periods allowed by the federal grants, the Department may move funds to other programs, in accordance with federal requirements of the grant, in order to use the federal funds fully.

(k) Of the funds appropriated in this act to the Department of Human Resources, Division of Child Development, the sum of five hundred thousand dollars (\$500,000) for fiscal year 1997-98 shall be transferred to the Department of Community Colleges to establish three model early childhood education centers in three community colleges, one in the eastern part of the State, one in the western part of the State, and one in the Piedmont.

(l) The Department of Environment, Health, and Natural Resources and the county departments of public health shall consult with the Department of Human Resources and the county departments of social services on the expenditure of the funds allocated to the Department of Environment, Health, and Natural Resources from the Temporary Assistance to Needy Families Block Grant to ensure that those funds are used for meeting the goal of reducing out-of-wedlock births.

(m) The Department of Human Resources, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall consult with the county departments of social services and the area mental health programs on the expenditure of funds allocated to the Department of Human

Resources from the TANF Block Grant to ensure that those funds are used for substance abuse services.

(n) By January 1, 1998, the Department of Human Resources shall report to the Senate and House Appropriations Subcommittees on Human Resources on the process undertaken for determining how the funds described in subsections (g), (l), and (m) of this section will be allocated.

(o) If the United States Congress reduces the amount of TANF funds below the amounts specified above after the effective date of this act, then the Department shall reduce every item in the TANF Block Grant section listed above pro rata. Any TANF funds appropriated by the United States Congress in addition to the funds specified in this act shall not be expended until appropriated by the General Assembly. Any TANF Block Grant fund changes shall be reported to the members of the House and Senate Appropriations Subcommittees on Human Resources and to the Fiscal Research Division.

(p) Notwithstanding the amounts specified in this section for the components of the Temporary Assistance for Needy Families (TANF) Block Grant, the Department may expend TANF Block Grant funds during the first quarter of the 1997-98 fiscal year for the same purposes for which those funds were expended during the last quarter of the fiscal year ending June 30, 1997.

Requested by: Representatives Mitchell, Baker, Carpenter
NER BLOCK GRANT FUNDS

Section 5.1. (a) Appropriations from federal block grant funds are made for the fiscal year ending June 30, 1998, according to the following schedule:

COMMUNITY DEVELOPMENT BLOCK GRANT

01. State Administration	\$ 1,000,000
02. Urgent Needs and Contingency	2,177,500
03. Community Empowerment	2,000,000
04. Economic Development	8,710,000
05. Community Revitalization	29,000,000
06. State Technical Assistance	450,000
07. Housing Development	1,662,500

TOTAL COMMUNITY DEVELOPMENT BLOCK GRANT - 1998 Program Year	\$ 45,000,000
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MATERNAL AND CHILD HEALTH BLOCK GRANT

01. Healthy Mother/Healthy Children Block Grants to Local Health Departments	\$ 9,838,074
02. High Risk Maternity Clinic Services, Perinatal Education and Training, Childhood Injury Prevention, Public Information and Education, and Technical Assistance to Local Health Departments	1,722,869
03. Services to Children With Special Health Care Needs	4,954,691

TOTAL MATERNAL AND CHILD HEALTH BLOCK GRANT	\$ 16,515,634
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PREVENTIVE HEALTH SERVICES BLOCK GRANT

01. Emergency Medical Services	\$ 213,128
02. Hypertension Programs	711,813
03. Statewide Health Promotion Programs	2,777,924
04. Dental Health for Fluoridation of Water Supplies	224,170
05. Rape Prevention and Rape Crisis Programs	187,110
06. Rape Prevention and Rape Education	935,552
07. AIDS/HIV Education, Counseling, and Testing	66,939
08. Office of Minority Health and Minority Health Council	186,478
09. Administrative and Indirect Cost	217,762

TOTAL PREVENTIVE HEALTH SERVICES BLOCK GRANT	\$ 5,520,876
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(b) Decreases in Federal Fund Availability

Decreases in federal fund availability shall be allocated as follows:

- (1) For the Community Development Block Grants -- If federal funds are reduced below the amounts specified above after the effective date of this act, then every program in each of these federal block

grants shall be reduced by the same percentage as the reduction in federal funds.

- (2) For the Maternal and Child Health and Preventive Health Services federal block grant -- If federal funds are reduced less than ten percent (10%) below the amounts specified above after the effective date of this act, then every program in the Maternal and Child Health and in the Preventive Health Services Block Grants shall be reduced by the same percentage as the reduction in federal funds. If federal funds are reduced by ten percent (10%) or more below the amounts specified above after the effective date of this act, then for the Maternal and Child Health and the Preventive Health Services Block Grants the Department of Environment, Health, and Natural Resources shall allocate the decrease in funds after considering the effectiveness of the current level of services.

(c) Increases in Federal Fund Availability

Any block grant funds appropriated by the Congress of the United States in addition to the funds specified in this act shall be expended as follows:

- (1) For the Community Development Block Grant -- Each program category under the Community Development Block Grant shall be increased by the same percentage as the increase in federal funds.
- (2) For the Maternal and Child Health Block Grant -- Thirty percent (30%) of these additional funds shall be allocated to services for children with special health care needs and seventy percent (70%) shall be allocated to local health departments to assist in the reduction of infant mortality.
- (3) For the Preventive Health Block Grants -- These additional funds may be budgeted by the appropriate department, with the approval of the Office of State Budget and Management, after considering the effectiveness of the current level of services and the effectiveness of services to be funded by the increase, provided the resultant increases are in accordance with federal block grant requirements and are within the scope of the block grant plan approved by the General Assembly.

(d) Changes to budgeted allocations to the Maternal and Child Health and the Preventive Health Services Block Grants due to increases or decreases in federal funds shall be reported to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division within 30 days of the allocation. All other increases shall be reported to the Joint Legislative Commission on Governmental Operations and to the Director of the Fiscal Research Division.

(e) Limitations on Community Development Block Grant Funds

Of the funds appropriated in this section for the Community Development Block Grant, the following shall be allocated in each category for each program year: up to one million dollars (\$1,000,000) may be used for State administration; up to two million one hundred seventy-seven thousand five hundred dollars (\$2,177,500) may be used for Urgent Needs and Contingency; up to two million dollars (\$2,000,000) may be used for Community Empowerment; up to eight million seven hundred ten thousand

dollars (\$8,710,000) may be used for Economic Development; not less than twenty-nine million dollars (\$29,000,000) shall be used for Community Revitalization; up to four hundred fifty thousand dollars (\$450,000) may be used for State Technical Assistance; up to one million six hundred sixty-two thousand five hundred dollars (\$1,662,500) may be used for Housing Development. If federal block grant funds are reduced or increased by the Congress of the United States after the effective date of this act, then these reductions or increases shall be allocated in accordance with subsection (b) or (c) of this section, as applicable. If funds are available from program income, deobligated funds, or urgent needs and contingency, then the Department of Commerce shall use up to five hundred thousand dollars (\$500,000) for an Infrastructure Demonstration Project that will focus on innovative approaches to straight piping and pit privy problems.

(f) Limitations on Preventive Health Service Block Grant Funds

Twenty-five percent (25%) of funds allocated for Rape Prevention and Rape Education shall be allocated as grants to nonprofit organizations to provide rape prevention and education programs targeted for middle, junior high, and high school students. Any rape crisis center or other nonprofit organization that receives funds under this section to provide rape education and rape prevention programs to schools shall give priority to schools with an abstinence-based sex education curriculum.

PART VI. GENERAL FUND AND HIGHWAY FUND AVAILABILITY STATEMENTS

GENERAL FUND AVAILABILITY STATEMENTS

Section 6. The General Fund and availability used in developing the 1997-99 budget is shown below:

(\$ Millions)

(1)	Composition of the 1997-98 beginning availability	
a.	Revenue collections unaddressed in 1996-97	200.0
b.	Disaster Relief Reserve	(115.0)
c.	Revenue collections in 1996-97 in excess of authorized estimates	539.1
d.	Unexpended appropriations during 1996-97 (Reversions)	140.9
e.	Adjustment for Emergency Appropriation to Community Colleges, S.L. 1997-38	(4.7)
	Subtotal	760.3
f.	Transfer to Reserve for Repairs and Renovations (Supplemental)	(39.3)
g.	Transfer to Reserve for Repairs and Renovations (by formula)	(135.0)
h.	Transfer to Clean Water Management Reserve	(49.4)
i.	Appropriation Adjustment in 1996-97	0.3
j.	Reserve for Intangible Tax Refunds	(156.0)
	Ending Fund Balance	380.9

*The State Treasurer is authorized to invest \$61,000,000 for the purchase of the North Carolina Railroad.

	(\$ Millions) 1997-98	(\$ Millions) 1998-99
(2) Beginning Unrestricted Fund Balance	319.9	-
(3) Revenues Based on Existing Tax Structure	11,202.0	11,868.9
(4) Tax Changes:		
H57 Nonresident Withholding	8.5	10.0
H59 Internal Revenue Code Update	(8.5)	(16.8)
S323 Historic Rehabilitation Tax Credit	-	(0.1)
H260 Conservation Tax Credit	(3.2)	(3.2)
S727 Reduce Sales Tax on Food	-	(83.8)
H35 Conform Sales Tax Refund Period	-	0.2
H204 Foreclosure Filing Fee	0.1	0.1
S316 Amend Bill Lee Act	-	(0.3)
H13 Simplify and Reduce Inheritance Tax	-	(2.5)
H15 Conform Tax on Restored Income	(0.1)	(0.1)
H14 Update Custom Computer Software	0.5	0.7
S93 Ports Tax Credit	-	(0.5)
H754 Illicit Liquor Tax	0.1	0.1
H1057 Exempt Audiovisual Masters	(1.0)	(1.6)
(5) Court Fee Increase (S727)	12.6	15.1
(6) Insurance Regulatory Charge (S727)	-	-
(7) Secretary of State Fee Increase (S727)	1.5	1.7
(8) Treasurer's Banking and Local Government Commission	0.5	0.5
(9) Revenue-Corporate Filing Charge	0.3	1.2
(10) Disproportionate Share Receipts	-	83.0
(11) Highway Fund Transfer	12.6	13.4
(12) Revenue Assessments for Additional Interstate Auditors	2.6	7.9
(13) State Health Plan Purchasing Alliance Board-Transfer Cash Balance	0.6	-
(14) Earmarked Refunds for Federal Retirees	(35.5)	(35.5)
Total Availability	11,513.5	11,858.4

Requested by: Representatives Holmes, Creech, Esposito, Crawford
HIGHWAY FUND AVAILABILITY

Section 6.1. The Highway Fund appropriations availability used in developing the 1997-99 Highway Fund budget is shown below:

	1997-98	1998-99
Beginning Credit Balance	\$ 33,669,547	\$ -

Estimated Revenue	1,118,651,752	1,144,625,737
Total Highway Fund Availability	\$1,152,321,299	\$1,144,625,737

PART VII. GENERAL PROVISIONS

Requested by: Senators Plyler, Perdue, Odom, Representatives Holmes, Esposito, Creech, Crawford

SPECIAL FUNDS, FEDERAL FUNDS, AND DEPARTMENTAL RECEIPTS/AUTHORIZATION FOR EXPENDITURES

Section 7. (a) There is appropriated out of the cash balances, federal receipts, and departmental receipts available to each department, sufficient amounts to carry on authorized activities included under each department's operations. All these cash balances, federal receipts, and departmental receipts shall be expended and reported in accordance with provisions of the Executive Budget Act, except as otherwise provided by statute, and shall be expended at the level of service authorized by the General Assembly. If the receipts, other than gifts and grants that are unanticipated and are for a specific purpose only, collected in a fiscal year by an institution, department, or agency exceed the receipts certified for it in General Fund Codes or Highway Fund Codes, then the Director of the Budget shall decrease the amount he allots to that institution, department, or agency from appropriations from that Fund by the amount of the excess, unless the Director of the Budget finds that the appropriations from the Fund are necessary to maintain the function that generated the receipts at the level anticipated in the certified Budget Codes for that Fund. Funds that become available from overrealized receipts in General Fund Codes and Highway Fund Codes, other than gifts and grants that are unanticipated and are for a specific purpose only, shall not be used for new permanent employee positions or to raise the salary of existing employees except:

- (1) As provided in G.S. 116-30.1, 116-30.2, 116-30.3, 116-30.4, or 143-27; or
- (2) If the Director of the Budget finds that the new permanent employee positions are necessary to maintain the function that generated the receipts at the level anticipated in the certified budget codes for that Fund. The Director of the Budget shall notify the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the chairmen of the appropriations committees of the Senate and the House of Representatives, and the Fiscal Research Division of the Legislative Services Office that he intends to make such a finding at least 10 days before he makes the finding. The notification shall set out the reason the positions are necessary to maintain the function.

The Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division of the Legislative Services Office within 30 days after the end of each quarter the General Fund Codes or Highway Fund Codes that did not result in a corresponding reduced allotment from appropriations from that Fund.

(b) The Director of the Budget shall develop necessary budget controls, regulations, and systems to ensure that these funds and other State funds subject to the Executive Budget Act, are not spent in a manner which would cause a deficit in expenditures.

(c) G.S. 143-34.2 reads as rewritten:

"§ 143-34.2. Information as to requests for nonstate funds for projects imposing obligation on State; statement of participation in contracts, etc., for nonstate funds; limiting clause required in certain contracts or grants.

All State agencies, funds, or state-supported institutions shall submit to the Office of State Budget and Management, as of the original date thereof, copies of all applications and requests for nonstate funds, (including federal funds), to be used for any purpose to which this section is applicable. This section shall be applicable to all projects and programs which do or may impose upon the State of North Carolina any substantial financial obligation at the time of or subsequent to the acceptance of any funds received upon any such application or request. Every State agency, fund or state-supported institution seeking nonstate funds for any such project or program shall furnish to the Office of State Budget and Management and the Advisory Budget Commission with each such copy of application or request, a statement of the purposes for which any such project or program is desired or advocated, the source and amount of funds to be granted or provided therefor, and a statement of the conditions, if any, upon which such funds are to be provided. Prior to approval of any such project or program, the Office of State Budget and Management shall furnish to the Fiscal Research Division of the General Assembly a list of the projects or purposes and the current and future financial impact of those projects or purposes.

It shall be required of all State agencies, funds, or state-supported institutions, commissions or regional planning and development bodies to submit to the Office of State Budget and Management a statement of participation in any contract, agreement, plan or request for nonstate funds (including federal funds).

Any contract or grant entered into by a State board, commission, agency, department or institution for the operation of a new program by such State board, commission, agency, department or institution or for the enrichment of an ongoing program of such State board, commission, agency, department or institution shall include a limiting clause which specifically states that continuation of the contract or grant program with State appropriations beyond the current State fiscal year is subject to State funds being appropriated by the General Assembly specifically for that program.

The function of the Advisory Budget Commission under this section applies only if the Director of the Budget consults with the Commission in preparation of the budget."

Requested by: Senators Odom, Plyler, Perdue
INSURANCE AND FIDELITY BONDS

Section 7.1. All insurance and all official fidelity and surety bonds authorized for the several departments, institutions, and agencies shall be effected and placed by the Insurance Department, and the cost of placement

shall be paid by the affected department, institution, or agency with the approval of the Insurance Commissioner.

Requested by: Senators Odom, Plyler, Perdue, Gulley, Ballance, Rand, Representatives Justus, Kiser, Thompson, Hill

CONTINGENCY AND EMERGENCY FUND ALLOCATIONS

Section 7.2. (a) Of the funds appropriated in this act to the Contingency and Emergency Fund, the sum of nine hundred thousand dollars (\$900,000) for the 1997-98 fiscal year and the sum of nine hundred thousand dollars (\$900,000) for the 1998-99 fiscal year shall be designated for emergency allocations, which are for the purposes outlined in G.S. 143-23(a1)(3), (4), and (5). Two hundred twenty-five thousand dollars (\$225,000) for the 1997-98 fiscal year and two hundred twenty-five thousand dollars (\$225,000) for the 1998-99 fiscal year shall be designated for other allocations from the Contingency and Emergency Fund.

(b) Section 5 of S.L. 1997-388 reads as rewritten:

"Section 5. (a) Section 4 of this act is effective for taxable years beginning on or after January 1, 1997. The remainder of this act is effective when it becomes law and applies to persons pardoned on or after July 1, 1995.

(b) Notwithstanding the five-year limitation set forth in G.S. 148-82, as rewritten by Section 1 of this act, the petition of a person who has received a pardon of innocence prior to July 1, 1995, may be presented at any time prior to July 1, 1998, and this act shall apply to that petition, regardless of any prior claims for compensation filed and settled or otherwise resolved. If the petitioner has received compensation pursuant to a prior claim, the Industrial Commission shall consider the amount of the award received by the petitioner and may deduct that amount, plus interest, from the date the award was made, from an award granted pursuant to this act."

Requested by: Senators Odom, Plyler, Perdue

AUTHORIZED TRANSFERS

Section 7.3. The Director of the Budget may transfer to General Fund budget codes from the General Fund Salary Adjustment Reserves appropriation, and may transfer to Highway Fund budget codes from the Highway Fund Salary Adjustment Reserve appropriation amounts required to support approved salary adjustments made necessary by difficulties in recruiting and holding qualified employees in State government. The funds may be transferred only when salary reserve funds in individual operating budgets are not available.

Any remaining appropriations for legislative salary increases not required for that purpose may be used to supplement the Salary Adjustment Fund. These funds shall first be used to provide reclassifications of those positions already approved by the Office of State Personnel.

Requested by: Senators Odom, Plyler, Perdue

EXPENDITURES OF FUNDS IN RESERVES LIMITED

Section 7.4. All funds appropriated by this act into reserves may be expended only for the purposes for which the reserves were established.

Requested by: Senators Odom, Plyler, Perdue

STATE MONEY RECIPIENTS/CONFLICT OF INTEREST POLICY

Section 7.5. Each private, nonprofit entity eligible to receive State funds, either by General Assembly appropriation, or by grant, loan, or other allocation from a State agency, before funds may be disbursed to the entity, shall file with the disbursing agency a notarized copy of that entity's policy addressing conflicts of interest that may arise involving the entity's management employees and the members of its board of directors or other governing body. The policy shall address situations where any of these individuals may directly or indirectly benefit, except as the entity's employees or members of the board or other governing body, from the entity's disbursing of State funds, and shall include actions to be taken by the entity or the individual, or both, to avoid conflicts of interest and the appearance of impropriety.

Requested by: Senators Plyler, Perdue, Odom

BUDGETING OF PILOT PROGRAMS

Section 7.6. (a) Any program designated by the General Assembly as experimental, model, or pilot shall be shown as a separate budget item and shall be considered as an expansion item until a succeeding General Assembly reapproves it.

Any new program funded in whole or in part through a special appropriations bill shall be designated as an experimental, model, or pilot program.

(b) The Governor shall submit to the General Assembly with his proposed budget a report of which items in the proposed budget are subject to the provisions of this section.

Requested by: Senators Plyler, Perdue, Odom

AUTHORIZATION OF PRIVATE LICENSE TAGS ON STATE-OWNED MOTOR VEHICLE

Section 7.7. (a) Pursuant to the provisions of G.S. 14-250, for the 1997-99 fiscal biennium, the General Assembly authorizes the use of private license tags on State-owned motor vehicles only for the State Highway Patrol and for the following:

<u>Department</u>	<u>Exemption Category</u>	<u>Number</u>
Motor Vehicles	License and Theft	97
Justice	SBI Agents	277
Correction	Probation/Parole Surveillance Officers (intensive probation)	25
Crime Control and Public Safety	ALE Officers	92
Revenue		4
Capitol Area Police		2

(b) The 92 ALE vehicles authorized by this section to use private license tags shall be distributed as follows:

- (1) 54 among Agent I officers;

- (2) 20 among Agent II officers;
 - (3) 1 to the Deputy Director;
 - (4) 12 to the District Offices/Extra Vehicles; and
 - (5) 5 to the Director, to be distributed at the Director's discretion.
- (c) Except as provided in this section, all State-owned motor vehicles shall bear permanent registration plates issued under G.S. 20-84.

(d) The Appropriations Committees of the House of Representatives and the Senate may study the current laws regarding the authorization and issuance of private, confidential, and fictitious license tags on State-owned vehicles issued under G.S. 20-56, 20-39, 80-11.1(e), 14-250, and any other State law, and the authorization and issuance of motor vehicle drivers licenses and motor vehicle registration plates under assumed names using false or fictitious addresses. In its study the Committees may study the number of these licenses and tags actually issued under State law, the criteria used to determine whether it is appropriate to issue the license or tag requested, the need for such licenses and tags, the records kept with regard to those tags and licenses, and any other relevant issues.

The Committees may report to the 1997 General Assembly (1998 Regular Session) and to the 1999 General Assembly.

Requested by: Senators Plyler, Perdue, Odom, Representatives Holmes, Esposito, Creech, Crawford

MODIFICATIONS TO THE EXECUTIVE BUDGET ACT

Section 7.8. (a) G.S. 143-16.3 reads as rewritten:

"§ 143-16.3. *No expenditures for purposes for which the General Assembly has considered but not enacted an appropriation.*

Notwithstanding any other provision of law, no funds from any source, except for gifts, grants, funds allocated from the Repair and Renovations Account in accordance with G.S. 143-15.3A, and funds allocated from the Contingency and Emergency Fund in accordance with G.S. 143-12(b), may be expended for any new or expanded purpose, position, or other expenditure for which the General Assembly has considered but not enacted an appropriation of funds for the current fiscal period. period; provided, however, that in the event the Director of the Budget declares that it is necessary to deviate from this provision, he may do so after prior consultation with the Joint Legislative Commission on Governmental Operations. For the purpose of this section, the General Assembly has considered a purpose, position, or other expenditure when that purpose is included in a bill, amendment, or petition and when any committee of the Senate or the House of Representatives deliberates on that purpose."

(b) G.S. 143-16.3 does not apply to the Blue Ridge Parkway-Scenic Vistas Parkway.

(c) G.S. 143-23 reads as rewritten:

"§ 143-23. *All maintenance funds for itemized purposes; transfers between objects or line items.*

(a) All appropriations now or hereafter made for the maintenance of the various departments, institutions and other spending agencies of the State, are for the (i) purposes or programs and (ii) objects or line items enumerated in the itemized requirements of such departments, institutions

and other spending agencies submitted to the General Assembly by the Director of the Budget and the Advisory Budget Commission, as amended by the General Assembly. The function of the Advisory Budget Commission under this subsection applies only if the Director of the Budget consults with the Commission in preparation of the budget.

(a1) Notwithstanding the provisions of subsection (a) of this section, a department, institution, or other spending agency may, with approval of the Director of the Budget, spend more than was appropriated for:

- (1) An object or line item within a purpose or program so long as the total amount expended for the purpose or program is no more than was appropriated from all sources for the purpose or program for the fiscal period;
- (2) A purpose or program, without consultation with the Joint Legislative Commission on Governmental Operations, if the overexpenditure of the purpose or program is:
 - a. Required by a court, Industrial Commission, or administrative hearing officer's order;
 - b. Required to respond to an unanticipated disaster such as a fire, hurricane, or tornado; or
 - c. Required to call out the National Guard.

The Director of the Budget shall report on a quarterly basis to the Joint Legislative Commission on Governmental Operations on any overexpenditures under this subdivision; or

- (3) A purpose or program, after consultation with the Joint Legislative Commission on Governmental Operations in accordance with G.S. 120-76(8), and only if: (i) the overexpenditure is required to continue the purpose or programs due to complications or changes in circumstances that could not have been foreseen when the budget for the fiscal period was enacted and (ii) the scope of the purpose or program is not increased. ~~Total overexpenditures of a purpose or program for a fiscal year under this subdivision shall be limited to the lesser of five hundred thousand dollars (\$500,000) or ten percent (10%) of the amount appropriated from all sources for the purpose or program, unless such overexpenditures are necessary to provide matching funds for federal entitlement programs.~~ The consultation is required as follows:

- a. For a purpose or program with a certified budget of up to five million dollars (\$5,000,000), consultation is required when the authorization for the overexpenditure exceeds ten percent (10%) of the certified budget;
- b. For a purpose or program with a certified budget of from five million dollars (\$5,000,000) up to twenty million dollars (\$20,000,000), consultation is required when the authorization for the overexpenditure exceeds five hundred thousand dollars (\$500,000) or seven and one-half percent (7.5%) of the certified budget, whichever is greater;
- c. For a purpose or program with a certified budget of twenty million dollars (\$20,000,000) or more, consultation is required

when the authorization for the overexpenditure exceeds one million five hundred thousand dollars (\$1,500,000) or five percent (5%) of the certified budget, whichever is greater;

- d. For a purpose or program supported by federal funds or when expenditures are required for the reasons set out in subdivision (2) of this subsection, no consultation is required.

If the Joint Legislative Commission on Governmental Operations does not meet for more than 30 days, the Director of the Budget may satisfy the requirements of the subsection to report to or consult with the Commission by reporting to or consulting with a joint meeting of the Chairs of the Appropriations Committees of the Senate and the House of Representatives.

(a2) Funds appropriated for salaries and wages are also subject to the limitation that they may only be used for:

- (1) Salaries and wages or for premium pay, overtime pay, longevity, unemployment compensation, workers' compensation, temporary wages, moving expenses of employees, payment of accumulated annual leave, certain awards to employees, tort claims, and employer's social security, retirement, and hospitalization payments;
- (2) Contracted personal services if (i) the contract is for temporary services or special project services, (ii) the term of the contract does not extend beyond the fiscal year, (iii) the contract does not impose obligations on the State after the end of the fiscal year; and (iv) the total of all overexpenditures for contracted personal services approved in a program for a fiscal year does not exceed the greater of five hundred thousand dollars (\$500,000) or ten percent (10%) of the lapsed salary funds in the program for the fiscal year; and
- (3) Uses for which overexpenditures are permitted by subdivision (2) of subsection (a1) of this section but the Director of the Budget shall include such use and the reason for it in his quarterly report to the Joint Legislative Commission on Governmental Operations.

~~Lapsed salary funds that become available from vacant positions are also subject to the limitation that they may not shall not be used for new permanent employee positions or to raise the salary of existing employees.~~

(a3), (a4) Repealed by Session Laws 1996, Second Extra Session, c. 18, s. 7.4(f).

(b) Repealed by Session Laws 1985, c. 290, s. 8.

(c) Transfers or changes as between objects or line items in the budget of the Senate may be made by the President Pro Tempore of the Senate.

(d) Transfers or changes as between objects or line items in the budget of the House of Representatives may be made by the Speaker of the House of Representatives.

(e) Transfers or changes as between objects or line items in the budget of the General Assembly other than of the Senate and House of Representatives may be made jointly by the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

(el) Transfers or changes as between objects or line items in the budget of the Office of the Governor may be made by the Governor.

(e2) Transfers or changes as between objects or line items in the Office of the Lieutenant Governor may be made by the Lieutenant Governor.

(f) As used in this section:

- (1) 'Object or line item' means a budgeted expenditure or receipt in the budget enacted by the General Assembly that is designated by (i) a thirteen-digit code in the 1000-object code series or (ii) an eleven-digit code in all other object code series, in accordance with the Budget Code Structure and the State Accounting System Uniform Chart of Accounts set out in the Administrative Policies and Procedures Manual of the Office of the State Controller.
- (2) 'Purpose or program' means a group of objects or line items for support of a specific activity outlined in the budget adopted by the General Assembly that is designated by a nine-digit fund code in accordance with the Budget Code Structure and the State Accounting System Uniform Chart of Accounts set out in the Administrative Policies and Procedures Manual of the Office of the State Controller."

(d) G.S. 143-27 reads as rewritten:

"§ 143-27. Appropriations to educational, charitable and correctional institutions are in addition to receipts by them.

All appropriations now or hereafter made to the educational institutions, and to the charitable and correctional institutions, and to such other departments and agencies of the State as receive moneys available for expenditure by them are declared to be in addition to such receipts of said institutions, departments or agencies, and are to be available as and to the extent that such receipts are insufficient to meet the costs anticipated in the budget authorized by the General Assembly, of maintenance of such institutions, departments, and agencies; Provided, however, that if the receipts, other than gifts and grants that are unanticipated and are for a specific purpose only, collected in a fiscal year by an institution, department, or agency exceed the receipts certified for it in General Fund Codes, Highway Fund Codes, or ~~budgeted~~ Special Wildlife Fund Codes, the Director of the Budget shall decrease the amount he allots to that institution, department, or agency from appropriations from that Fund by the amount of the excess, unless the Director of the Budget has consulted with the Joint Legislative Commission on Governmental Operations and unless the Director of the Budget finds that (i) the appropriations from that Fund are necessary to maintain the function that generated the receipts at the level anticipated in the certified Budget Codes for that Fund and (ii) the funds may be expended in accordance with G.S. 143-23. Notwithstanding the foregoing provisions of this section, receipts within The University of North Carolina realized in excess of budgeted levels shall be available, up to a maximum of ten percent (10%) above budgeted levels, for each Budget Code, in addition to appropriations, to support the operations generating such receipts, as approved by the Director of the Budget.

The Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division of the Legislative Services Office within 30 days after the end of each quarter on expenditures of receipts in excess of the amounts

certified in General Fund Codes, Highway Fund Codes, or ~~budgeted Special Wildlife~~ Fund Codes, that did not result in a corresponding reduced allotment from appropriations from that Fund."

(e) G.S. 120-76(8) reads as rewritten:

"(8) The Joint Legislative Commission on Governmental Operations shall be consulted by the Governor before the Governor does any of the following:

- a. Makes allocations from the Contingency and Emergency Fund.
- b. Authorizes expenditures in excess of the total requirements of a purpose or program as enacted by the General Assembly, Assembly and as provided by G.S. 143-23(a1)(3), except for trust funds as defined in G.S. 116-36.1(g).
- c. Proceeds to reduce programs subsequent to a reduction of ten percent (10%) or more in the federal fund level certified to a department and any subsequent changes in distribution formulas.
- d. Takes extraordinary measures under Article III, Section 5(3) of the Constitution to effect necessary economies in State expenditures required for balancing the budget due to a revenue shortfall, including, but not limited to, the following: loans among funds, personnel freezes or layoffs, capital project reversions, program eliminations, and use of reserves. However, if the Committee fails to meet within 10 calendar days of a request by the Governor for its consultation, the Governor may proceed to take the actions he feels are appropriate and necessary and shall then report those actions at the next meeting of the Commission.
- e. Approves a new capital improvement project funded from gifts, grants, receipts, special funds, self-liquidating indebtedness, and other funds or any combination of funds for the project not specifically authorized by the General Assembly. The budget for each capital project must include projected revenues in an amount not less than projected expenditures.

Notwithstanding the provisions of this subdivision or any other provision of law requiring prior consultation by the Governor with the Commission, whenever an expenditure is required because of an emergency that poses an imminent threat to public health or public safety, and is either the result of a natural event, such as a hurricane or a flood, or an accident, such as an explosion or a wreck, the Governor may take action under this subsection without consulting the Commission if the action is determined by the Governor to be related to the emergency. The Governor shall report to the Commission on any expenditures made under this paragraph no later than 30 days after making the expenditure and shall identify in the report the emergency, the type of action taken, and how it was related to the emergency."

Requested by: Senators Odom, Plyler, Perdue, Representatives Holmes, Esposito, Creech, Crawford

CLEAN WATER TRUST FUND/PRIORITIZE BETWEEN SAVINGS RESERVE ACCOUNT AND CLEAN WATER MANAGEMENT TRUST FUND

Section 7.9. (a) G.S. 143-15.3B(a) reads as rewritten:

"(a) - The Clean Water Management Trust Fund is established in G.S. 113-145.3. The State Controller shall reserve to the Clean Water Management Trust Fund six and one-half percent (6.5%) of any unreserved credit balance remaining in the General Fund at the end of each fiscal year, year or thirty million dollars (\$30,000,000), whichever is greater.

~~As used in this section, the term 'unreserved credit balance' means the credit balance amount, as determined on a cash basis, before funds are reserved by the State Controller to the Savings Reserve Account, the Repairs and Renovations Reserve Account, or the Clean Water Management Trust Fund pursuant to this section, G.S. 143-15.3, and G.S. 143-15.3A."~~

(b) G.S. 143-15.2 reads as rewritten:

"§ 143-15.2. ~~Use of General Fund credit balance.~~ balance; priority uses.

~~The State Controller shall reserve up to one-fourth of any unreserved credit balance, as determined on a cash basis, remaining in the General Fund at the end of each fiscal year to the Savings Reserve Account as provided in G.S. 143-15.3, unless that would result in the Savings Reserve Account having funds in excess of five percent (5%) of the amount appropriated the preceding year for the General Fund operating budget, including local government tax-sharing funds if directly appropriated; in that case, only funds sufficient to reach the five percent (5%) level shall be reserved. The State Controller shall also reserve from the unreserved credit balance, as determined on a cash basis, remaining in the General Fund three percent (3%) of the replacement value of all State buildings supported from the General Fund, at the end of each fiscal year to the Repairs and Renovations Reserve Account as provided in G.S. 143-15.3A. The General Assembly may appropriate that part of the anticipated General Fund credit balance not expected to be reserved to the Savings Reserve Account or the Repairs and Renovations Reserve Account only for capital improvements or other one-time expenditures. As used in this section, the term 'unreserved credit balance' means the credit balance amount, as determined on a cash basis, before funds are reserved by the Controller to the Savings Reserve Account or the Repairs and Renovations Reserve Account pursuant to G.S. 143-15.3 and G.S. 143-15.3A.~~

(a) As used in G.S. 143-15.3, 143-15.3A, and 143-15.3B, the term 'unreserved credit balance' means the credit balance amount, as determined on a cash basis, before funds are reserved by the State Controller to the Savings Reserve Account, the Repairs and Renovations Reserve Account, or the Clean Water Management Trust Fund pursuant to G.S. 143-15.3, 143-15.3A, and 143-15.3B.

(b) The State Controller shall transfer funds from the unreserved credit balance to the Savings Reserve Account in accordance with G.S. 143-15.3(a).

(c) The State Controller shall transfer funds from the unreserved credit balance to the Repairs and Renovation Reserve Account in accordance with G.S. 143-15.3A(a).

(d) The State Controller shall transfer funds from the unreserved credit balance to the Clean Water Management Trust Fund in accordance with G.S. 143-15.3B(a).

(e) The General Assembly may appropriate that part of the anticipated General Fund credit balance not expected to be reserved only for capital improvements or other one-time expenditures."

(c) G.S. 143-15.3 reads as rewritten:

"§ 143-15.3. *Savings Reserve Account.*

(a) There is established a Savings Reserve Account as a restricted reserve in the General Fund. The State Controller shall reserve to the Savings Reserve Account one-fourth of any unreserved credit balance remaining in the General Fund at the end of each fiscal year until the account contains funds equal to five percent (5%) of the amount appropriated the preceding year for the General Fund operating budget, including local government tax-sharing funds, funds, that were directly appropriated. In the event that the one-fourth exceeds the amount necessary to reach the five percent (5%) level, only funds necessary to reach that level shall be reserved. If there are insufficient funds in the unreserved credit balance for the Savings Reserve Account, the Repairs and Renovations Reserve Account, and the Clean Water Management Trust Fund, then the requirements of this section shall be complied with first, and any remaining funds shall be reserved to the Repairs and Renovations Reserve Account, in accordance with G.S. 143-15.3A, and the Clean Water Management Trust Fund, in accordance with G.S. 143-15.3B.

(a) If the balance in the Savings Reserve Account falls below this the five percent (5%) level during a fiscal year, the State Controller shall, in accordance with subsection (a) of this section, reserve to the Savings Reserve Account for the following fiscal years up to one-fourth of any unreserved credit balance remaining in the General Fund at the end of each fiscal year until the account again equals the five percent (5%) of the amount appropriated the preceding year for the General Fund operating budget, including local government tax-sharing funds, level set out in subsection (a) of this section. As used in this section, the term 'unreserved credit balance' means the credit balance amount, as determined on a cash basis, before funds are reserved by the Controller to the Savings Reserve Account or the Repairs and Renovations Reserve Account pursuant to this section and G.S. 143-15.3A.

(b) The Director may not use funds in the Savings Reserve Account unless the use has been approved by an act of the General Assembly."

(d) G.S. 143-15.3A reads as rewritten:

"§ 143-15.3A. *Repairs and Renovations Reserve Account.*

(a) There is established a Repairs and Renovations Reserve Account as a restricted reserve in the General Fund. The State Controller shall reserve to the Repairs and Renovations Reserve Account three percent (3%) of the replacement value of all State buildings supported from the General Fund, at the end of each fiscal year. As used in this section, the term 'unreserved

~~credit balance' means the credit balance amount, as determined on a cash basis, before funds are reserved by the Controller to the Savings Reserve Account or the Repairs and Renovations Reserve Account pursuant to this section and G.S. 143-15.3.~~

(b) The funds in the Repairs and Renovations Reserve Account shall be used only for the repair and renovation of State facilities and related infrastructure that are supported from the General Fund. Funds from the Repairs and Renovations Reserve Account shall be used only for the following types of projects:

- (1) Roof repairs and replacements;
- (2) Structural repairs;
- (3) Repairs and renovations to meet federal and State standards;
- (4) Repairs to electrical, plumbing, and heating, ventilating, and air-conditioning systems;
- (5) Improvements to meet the requirements of the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq., as amended;
- (6) Improvements to meet fire safety needs;
- (7) Improvements to existing facilities for energy efficiency;
- (8) Improvements to remove asbestos, lead paint, and other contaminants, including the removal and replacement of underground storage tanks;
- (9) Improvements and renovations to improve use of existing space;
- (10) Historical restoration;
- (11) Improvements to roads, walks, drives, utilities infrastructure; and
- (12) Drainage and landscape improvements.

Funds from the Repairs and Renovations Reserve Account shall not be used for new construction or the expansion of the footprint of an existing facility unless required in order to comply with federal or State codes or standards.

The Director of the Budget shall not use funds in the Repairs and Renovations Reserve Account unless the use has been approved by an act of the General Assembly or, if the General Assembly is not in session, the Director of the Budget has first consulted with the Joint Legislative Commission on Governmental Operations under G.S. 143-15.3A(c).

(c) The Governor shall consult with the Joint Legislative Commission on Governmental Operations before making allocations from the Repairs and Renovations Reserve Account.

Notwithstanding this subsection, whenever an expenditure is required because of an emergency that poses an imminent threat to public health or public safety, and is either the result of a natural event, such as a hurricane or a flood, or an accident, such as an explosion or a wreck, the Governor may take action under this subsection without consulting the Commission if the action is determined by the Governor to be related to the emergency. The Governor shall report to the Commission on any expenditures made under this paragraph no later than 30 days after making the expenditure and shall identify in the report the emergency, the type of action taken, and how it was related to the emergency."

(e) This section becomes effective June 30, 1997.

Requested by: Representative Mitchell

CLEAN WATER MANAGEMENT TRUST FUND REPORTS

Section 7.10. (a) Article 13A of Chapter 113 of the General Statutes is amended by adding a new section to read:

"§ 113-145.6A. Clean Water Management Trust Fund: reporting requirement.

(a) The Chair of the Trustees shall report each year by November 1 to the Joint Legislative Commission on Governmental Operations, the Environmental Review Commission and the Subcommittees on Natural and Economic Resources of the House of Representatives and Senate Appropriations Committees regarding the implementation of this Article. A written copy of the report shall also be sent to the Fiscal Research Division of the General Assembly by November 1 of each year.

(b) No later than November 1, 1997, and quarterly thereafter, the Chair of the Trustees shall submit to the Joint Legislative Commission on Governmental Operations, the Environmental Review Commission and the Subcommittees on Natural and Economic Resources of the House of Representatives and Senate Appropriations Committees a list of the projects awarded grants from the Fund that quarter. The list shall include for each project a description of the project, the amount of the grant awarded for the project, and the total cost of the project. A written copy of the list and other information regarding the projects shall also be sent to the Fiscal Research Division of the General Assembly by November 1, 1997, and for each subsequent quarter."

Requested by: Representatives Gray, Holmes, Creech, Esposito, Crawford, Senator Kerr

INTANGIBLES TAX REMEDY

Section 7.11. Of the unreserved credit balance as of June 30, 1997, the sum of one hundred fifty-six million dollars (\$156,000,000) is reserved for the costs of intangibles tax refunds required by G.S. 105-267 and other intangibles tax refunds, including interest, and the Department of Revenue's additional costs of administering the refunds. If this sum is not sufficient, the Department of Revenue may draw additional funds from collections under Division II of Article 4 of Chapter 105 of the General Statutes, as necessary, but in no case may the Department of Revenue receive pursuant to this subsection more than a total of six hundred seventy-five thousand dollars (\$675,000) for its additional costs of administering the refunds.

Requested by: Senators Gulley, Ballance, Rand, Representatives Holmes, Creech, Esposito, Crawford, Justus, Kiser, Thompson

DISASTER RELIEF/NATIONAL GUARD PAY DATE

Section 7.12. (a) The Department of Crime Control and Public Safety shall report to the 1997 General Assembly, 1998 Regular Session, regarding the status of the federal disaster relief funds. The report shall include the purpose for which the funds were spent, the total amount of the expenditure, and the total funds remaining for disaster relief. A copy of the report shall also be provided to the Fiscal Research Division of the General Assembly.

(b) State funds that are designated to match federal funds for disaster relief, but that are not needed as matching funds, shall revert to the General Fund.

(c) Section 8 of S.L. 1997-153 reads as rewritten:

"Section 8. Sections ~~1 through 7~~ 1, 4, 5, and 7 of this act become effective December 1, 1997. Sections 2, 3, and 6 of this act become effective July 1, 1997. Section 8 of this act is effective when it becomes law."

Requested by: Representatives Holmes, Creech, Esposito, Crawford, Justus, Thompson, Kiser, Redwine

ANALYSIS OF STATE ADMINISTRATIVE SPAN OF GOVERNMENT CONTROL

Section 7.13. The Office of State Budget and Management shall continue to review and analyze the administrative span of control of State agencies. That study was authorized by the General Assembly in Section 10.1 of Chapter 324 of the 1995 Session Laws. The starting point for the continued review shall be the recommendations in the May 1996 study report, "Study of State Agency Spans of Control and Organizational Layers." In its review, the Office of State Budget and Management shall focus on four major areas: (i) excessively narrow spans of control goals (supervisors with few employees to supervise); (ii) excessive layers of management between top management and employees; (iii) one-to-one reporting relationships; and (iv) work units with small numbers of staff.

The study goals shall be fewer management layers; realistic supervisor to employee ratios; proper classification of supervisors; cost savings by eliminating unnecessary positions; and improved policies and procedures for reviewing and monitoring organizational layers and supervisor to employee ratios.

The review shall be conducted as a joint effort between the Office of State Budget and Management, the Office of State Personnel and State agencies to further review the number of organizational levels and the average span of control in each State agency and determine the appropriate span of control and management levels for the agency and for each major division and section within that agency. This review shall use the statewide benchmarks in the 1996 Span of Control study as a starting point for analysis, not as the required goal for each department. However, the study shall highlight the reasons for any deviation from the statewide benchmarks recommended in the 1996 study.

In its study, the Office of State Budget and Management shall:

- (1) Document any cost savings available from eliminating positions. These cost savings must be based on a reduced number of organizational layers and positions or a reduced number of supervisors due to increasing employee to supervisor ratios.
- (2) Highlight classifications that appear to be improperly classified as supervisors and, conversely, those nonsupervisory classifications that should be designated as supervisors. Potential costs or cost savings for reclassification of positions should be documented where possible.

- (3) Recommend new policies and procedures to be implemented by the Office of State Budget and Management and the Office of State Personnel for reviewing and monitoring agency organizational and supervisory changes. State Personnel should specifically review possible modifications to the State Personnel Management Information System that would allow for easy access and monitoring of agency organizational layers and supervisor to employee ratios.
- (4) Expand its scope to include The University of North Carolina System and the North Carolina Community College System.
- (5) Include a timetable for completing implementation of the study recommendations.

The Office of State Budget and Management shall report its findings and recommendations to the 1997 General Assembly by April 1, 1998. A progress report shall be provided quarterly by the Office of State Budget and Management to the Joint Legislative Commission on Governmental Operations, the Chairs of the Senate and House Appropriations Committees, and the Fiscal Research Division.

PART VIII. PUBLIC SCHOOLS

Requested by: Senators Winner, Lee, Representatives Arnold, Grady, Preston

CAREER DEVELOPMENT

Section 8.1. (a) The State Board of Education shall use funds available for the 1997-98 and 1998-99 fiscal years to ensure that individual employees do not receive less on a monthly basis in salary and State-funded bonuses during the 1997-98 fiscal year or during the 1998-99 fiscal year than they received on a monthly basis during the 1994-95 fiscal year, so long as the employees qualify for bonuses under the local differentiated pay plan. The State Board of Education may also use funds appropriated to State Aid to Local School Administrative Units for the 1997-98 and 1998-99 fiscal years as is necessary to hold individual employees harmless as provided in this subsection.

(b) Funds appropriated for local school administrative units receiving career development funds for the 1996-97 fiscal year that did not revert on June 30, 1997, shall not be used for expenses other than the costs of holding individual employees harmless as provided in subsection (a) of this section.

Requested by: Senators Winner, Lee, Representatives Arnold, Grady, Preston

SUPPLEMENTAL FUNDING IN LOW-WEALTH COUNTIES

Section 8.2. (a) Funds for Supplemental Funding. -- The General Assembly finds that it is appropriate to provide supplemental funds in low-wealth counties to allow those counties to enhance the instructional program and student achievement; therefore, funds are appropriated to Aid to Local School Administrative Units for the 1997-98 fiscal year and the 1998-99 fiscal year to be used for supplemental funds for schools.

(b) Use of Funds for Supplemental Funding. -- Local school administrative units shall use funds received pursuant to this section only to provide instructional positions, instructional support positions, teacher assistant positions, clerical positions, instructional supplies and equipment, staff development, and textbooks; provided, however, local school administrative units may use these funds for salary supplements for instructional personnel and instructional support personnel.

(c) Definitions. -- As used in this section:

- (1) "Anticipated county property tax revenue availability" means the county adjusted property tax base multiplied by the effective State average tax rate.
- (2) "Anticipated total county revenue availability" means the sum of the:
 - a. Anticipated county property tax revenue availability,
 - b. Local sales and use taxes received by the county that are levied under Chapter 1096 of the 1967 Session Laws or under Subchapter VIII of Chapter 105 of the General Statutes,
 - c. Food stamp exemption reimbursement received by the county under G.S. 105-164.44C,
 - d. Homestead exemption reimbursement received by the county under G.S. 105-277.1A,
 - e. Inventory tax reimbursement received by the county under G.S. 105-275.1 and G.S. 105-277A,
 - f. Intangibles tax distribution and reimbursement received by the county under G.S. 105-213 and G.S. 105-213.1, and
 - g. Fines and forfeitures deposited in the county school fund for the most recent year for which data are available.
- (3) "Anticipated total county revenue availability per student" means the anticipated total county revenue availability for the county divided by the average daily membership of the county.
- (4) "Anticipated State average revenue availability per student" means the sum of all anticipated total county revenue availability divided by the average daily membership for the State.
- (5) "Average daily membership" means average daily membership as defined in the North Carolina Public Schools Allotment Policy Manual, adopted by the State Board of Education. If a county contains only part of a local school administrative unit, the average daily membership of that county includes all students who reside within the county and attend that local school administrative unit.
- (6) "County adjusted property tax base" shall be computed as follows:
 - a. Subtract the present-use value of agricultural land, horticultural land, and forestland in the county, as defined in G.S. 105-277.2, from the total assessed real property valuation of the county,

- b. Adjust the resulting amount by multiplying by a weighted average of the three most recent annual sales assessment ratio studies,
- c. Add to the resulting amount the:
 - 1. Present-use value of agricultural land, horticultural land, and forestland, as defined in G.S. 105-277.2,
 - 2. Value of property of public service companies, determined in accordance with Article 23 of Chapter 105 of the General Statutes, and
 - 3. Personal property value for the county.
- (7) "County adjusted property tax base per square mile" means the county adjusted property tax base divided by the number of square miles of land area in the county.
- (8) "County wealth as a percentage of State average wealth" shall be computed as follows:
 - a. Compute the percentage that the county per capita income is of the State per capita income and weight the resulting percentage by a factor of five-tenths,
 - b. Compute the percentage that the anticipated total county revenue availability per student is of the anticipated State average revenue availability per student and weight the resulting percentage by a factor of four-tenths,
 - c. Compute the percentage that the county adjusted property tax base per square mile is of the State adjusted property tax base per square mile and weight the resulting percentage by a factor of one-tenth,
 - d. Add the three weighted percentages to derive the county wealth as a percentage of the State average wealth.
- (9) "Effective county tax rate" means the actual county tax rate multiplied by a weighted average of the three most recent annual sales assessment ratio studies.
- (10) "Effective State average tax rate" means the average of effective county tax rates for all counties.
- (10a) "Local current expense funds" means the most recent county current expense appropriations to public schools, as reported by local boards of education in the audit report filed with the Secretary of the Local Government Commission pursuant to G.S. 115C-447.
- (11) "Per capita income" means the average for the most recent three years for which data are available of the per capita income according to the most recent report of the United States Department of Commerce, Bureau of Economic Analysis, including any reported modifications for prior years as outlined in the most recent report.
- (12) "Sales assessment ratio studies" means sales assessment ratio studies performed by the Department of Revenue under G.S. 105-289(h).
- (13) "State average current expense appropriations per student" means the most recent State total of county current expense

appropriations to public schools, as reported by local boards of education in the audit report filed with the Secretary of the Local Government Commission pursuant to G.S. 115C-447.

- (14) "State average adjusted property tax base per square mile" means the sum of the county adjusted property tax bases for all counties divided by the number of square miles of land area in the State.
- (14a) "Supplant" means to decrease local per student current expense appropriations from one fiscal year to the next fiscal year.
- (15) "Weighted average of the three most recent annual sales assessment ratio studies" means the weighted average of the three most recent annual sales assessment ratio studies in the most recent years for which county current expense appropriations and adjusted property tax valuations are available. If real property in a county has been revalued one year prior to the most recent sales assessment ratio study, a weighted average of the two most recent sales assessment ratios shall be used. If property has been revalued the year of the most recent sales assessment ratio study, the sales assessment ratio for the year of revaluation shall be used.

(d) Eligibility for Funds. -- Except as provided in subsection (h) of this section, the State Board of Education shall allocate these funds to local school administrative units located in whole or in part in counties in which the county wealth as a percentage of the State average wealth is less than one hundred percent (100%).

(e) Allocation of Funds. -- Except as provided in subsection (g) of this section, the amount received per average daily membership for a county shall be the difference between the State average current expense appropriations per student and the current expense appropriations per student that the county could provide given the county's wealth and an average effort to fund public schools. (To derive the current expense appropriations per student that the county could be able to provide given the county's wealth and an average effort to fund public schools, multiply the county wealth as a percentage of State average wealth by the State average current expense appropriations per student.)

The funds for the local school administrative units located in whole or in part in the county shall be allocated to each local school administrative unit, located in whole or in part in the county, based on the average daily membership of the county's students in the school units.

If the funds appropriated for supplemental funding are not adequate to fund the formula fully, each local school administrative unit shall receive a pro rata share of the funds appropriated for supplemental funding.

(f) Formula for Distribution of Supplemental Funding Pursuant to This Section Only. -- The formula in this section is solely a basis for distribution of supplemental funding for low-wealth counties and is not intended to reflect any measure of the adequacy of the educational program or funding for public schools. The formula is also not intended to reflect any commitment by the General Assembly to appropriate any additional supplemental funds for low-wealth counties.

(g) Minimum Effort Required. -- Counties that had effective tax rates in the 1994-95 fiscal year that were above the State average effective tax rate but that had effective rates below the State average in the 1995-96 fiscal year or thereafter shall receive reduced funding under this section. This reduction in funding shall be determined by subtracting the amount that the county would have received pursuant to Section 17.1(g)(ii) of Chapter 507 of the 1995 Session Laws from the amount that the county would have received if qualified for full funding and multiplying the difference by ten percent (10%). This method of calculating reduced funding shall apply one time only.

This method of calculating reduced funding shall not apply in cases in which the effective tax rate fell below the statewide average effective tax rate as a result of a reduction in the actual property tax rate. In these cases, the minimum effort required shall be calculated in accordance with Section 17.1(g)(ii) of Chapter 507 of the 1995 Session Laws.

If the county documents that it has increased the per student appropriation to the school current expense fund in the current fiscal year, the State Board of Education shall include this additional per pupil appropriation when calculating minimum effort pursuant to Section 17.1(g)(ii) of Chapter 507 of the 1995 Session Laws.

(h) Nonsupplant requirement. -- A county in which a local school administrative unit receives funds under this section shall use the funds to supplement local current expense funds and shall not supplant local current expense funds. For the 1997-99 fiscal biennium, the State Board of Education shall not allocate funds under this section to a county found to have used these funds to supplant local per student current expense funds. The State Board of Education shall make a finding that a county has used these funds to supplant local current expense funds in the prior year, or the year for which the most recent data are available, if:

- (1) The current expense appropriation per student of the county for the current year is less than ninety-five percent (95%) of the average of the local current expense appropriations per student for the three prior fiscal years; and
- (2) The county cannot show (i) that it has remedied the deficiency in funding, or (ii) that extraordinary circumstances caused the county to supplant local current expense funds with funds allocated under this section.

The State Board of Education shall adopt rules to implement this section.

(i) Reports. -- The State Board of Education shall report to the Joint Legislative Education Oversight Committee prior to May 1, 1998, on its analysis of whether counties supplanted funds.

(j) Department of Revenue Reports. -- The Department of Revenue shall provide to the Department of Public Instruction a preliminary report for the current fiscal year of the assessed value of the property tax base for each county prior to March 1 of each year and a final report prior to May 1 of each year. The reports shall include for each county the annual sales assessment ratio and the taxable values of (i) total real property, (ii) the portion of total real property represented by the present-use value of agricultural land, horticultural land, and forestland as defined in G.S. 105-

277.2, (iii) property of public service companies determined in accordance with Article 23 of Chapter 105 of the General Statutes, and (iv) personal property.

Requested by: Senators Winner, Lee, Hartsell, Representatives Arnold, Grady, Preston, Moore

SMALL SCHOOL SYSTEM SUPPLEMENTAL FUNDING

Section 8.3. (a) **Funds for small school systems.** -- Except as provided in subsection (b) of this section, the State Board of Education shall allocate funds appropriated for small school system supplemental funding (i) to each county school administrative unit with an average daily membership of less than 3,150 students and (ii) to each county school administrative unit with an average daily membership of from 3,150 to 4,000 students if the county in which the local school administrative unit is located has a county adjusted property tax base per student that is below the State adjusted property tax base per student and if the total average daily membership of all local school administrative units located within the county is from 3,150 to 4,000 students. The allocation formula shall:

- (1) Round all fractions of positions to the next whole position.
- (2) Provide five and one-half additional regular classroom teachers in counties in which the average daily membership per square mile is greater than four, and seven additional regular classroom teachers in counties in which the average daily membership per square mile is four or less.
- (3) Provide additional program enhancement teachers adequate to offer the standard course of study.
- (4) Change the duty-free period allocation to one teacher assistant per 400 average daily membership.
- (5) Provide a base for the consolidated funds allotment of at least \$235,000, excluding textbooks.
- (6) Allot vocational education funds for grade 6 as well as for grades 7-12.

If funds appropriated for each fiscal year for small school system supplemental funding are not adequate to fund fully the program, the State Board of Education shall reduce the amount allocated to each county school administrative unit on a pro rata basis. This formula is solely a basis for distribution of supplemental funding for certain county school administrative units and is not intended to reflect any measure of the adequacy of the educational program or funding for public schools. The formula is also not intended to reflect any commitment by the General Assembly to appropriate any additional supplemental funds for such county administrative units.

(b) **Nonsupplant requirement.** -- A county in which a local school administrative unit receives funds under this section shall use the funds to supplement local current expense funds and shall not supplant local current expense funds. For the 1997-99 fiscal biennium, the State Board of Education shall not allocate funds under this section to a county found to have used these funds to supplant local per student current expense funds. The State Board of Education shall make a finding that a county has used

these funds to supplant local current expense funds in the prior year, or the year for which the most recent data are available, if:

- (1) The current expense appropriation per student of the county for the current year is less than ninety-five percent (95%) of the average of the local current expense appropriations per student for the three prior fiscal years; and
- (2) The county cannot show (i) that it has remedied the deficiency in funding, or (ii) that extraordinary circumstances caused the county to supplant local current expense funds with funds allocated under this section.

The State Board of Education shall adopt rules to implement this section.

(c) **Phase-out provision.** -- If a local school administrative unit becomes ineligible for funding under this formula solely because of an increase in population or an increase in the county adjusted property tax base per student of the county in which the local school administrative unit is located, funding for that unit shall be phased-out over a two-year period. For the first year of ineligibility, the unit shall receive the same amount it received for the prior fiscal year. For the second year of ineligibility, it shall receive half of that amount.

(d) **Definitions.** -- As used in this section:

- (1) "Average daily membership" means within two percent (2%) of the average daily membership as defined in the North Carolina Public Schools Allotment Policy Manual, adopted by the State Board of Education.
- (2) "County adjusted property tax base per student" means the total assessed property valuation for each county, adjusted using a weighted average of the three most recent annual sales assessment ratio studies, divided by the total number of students in average daily membership who reside within the county.
- (2a) "Local current expense funds" means the most recent county current expense appropriations to public schools, as reported by local boards of education in the audit report filed with the Secretary of the Local Government Commission pursuant to G.S. 115C-447.
- (3) "Sales assessment ratio studies" means sales assessment ratio studies performed by the Department of Revenue under G.S. 105-289(h).
- (4) "State adjusted property tax base per student" means the sum of all county adjusted property tax bases divided by the total number of students in average daily membership who reside within the State.
- (4a) "Supplant" means to decrease local per student current expense appropriations from one fiscal year to the next fiscal year.
- (5) "Weighted average of the three most recent annual sales assessment ratio studies" means the weighted average of the three most recent annual sales assessment ratio studies in the most recent years for which county current expense appropriations and adjusted property tax valuations are available. If real property in a county has been revalued one year prior to the most recent

sales assessment ratio study, a weighted average of the two most recent sales assessment ratios shall be used. If property has been revalued the year of the most recent sales assessment ratio study, the sales assessment ratio for the year of revaluation shall be used.

(c) **Reports.** -- The State Board of Education shall report to the Joint Legislative Education Oversight Committee prior to May 1, 1998, on the results of its analysis of whether counties supplanted funds.

Requested by: Senators Winner, Lee, Representatives Arnold, Grady, Preston

LITIGATION RESERVE

Section 8.4. (a) Funds in the State Board of Education's Litigation Reserve that are not expended or encumbered on June 30, 1997, shall not revert on July 1, 1997, but shall remain available for expenditure until June 30, 1999.

(b) The State Board of Education may expend up to five hundred thousand dollars (\$500,000) for the 1997-98 fiscal year from unexpended funds for certified employees' salaries to pay expenses related to pending litigation.

(c) Subsection (a) of this section becomes effective June 30, 1997.

Requested by: Senators Winner, Lee, Hartsell, Representatives Arnold, Grady, Preston, Moore

EXCEPTIONAL CHILDREN FUNDS

Section 8.5. (a) The funds appropriated for exceptional children in this act shall be allocated as follows:

- (1) Each local school administrative unit shall receive for academically gifted children the sum of seven hundred ten dollars and sixty-one cents (\$710.61) per child for four percent (4%) of the 1997-98 allocated average daily membership in the local school administrative unit, regardless of the number of children identified as academically gifted in the local school administrative unit. The total number of children for which funds shall be allocated pursuant to this subdivision is 49,045 for the 1997-98 school year.
- (2) Each local school administrative unit shall receive for exceptional children other than academically gifted children the sum of two thousand one hundred thirty-one dollars and eighty-seven cents (\$2,131.87) per child for the lesser of (i) all children who are identified as exceptional children other than academically gifted children or (ii) twelve and five-tenths percent (12.5%) of the 1997-98 allocated average daily membership in the local school administrative unit. The maximum number of children for which funds shall be allocated pursuant to this subdivision is 142,956 for the 1997-98 school year.

The dollar amounts allocated under this subsection for exceptional children shall also increase in accordance with legislative salary increments for personnel who serve exceptional children.

(b) American Sign Language may be offered in the public schools, four-year State universities, colleges, and community colleges as a modern language with credit for individuals attending.

Requested by: Senators Winner, Lee, Representatives Arnold, Grady, Preston

MINIMUM VACATION LEAVE FOR BUS DRIVERS

Section 8.6. Notwithstanding any other provision of law, all regular school bus drivers, who have been employed for at least one academic year and who are not entitled to more than one day of paid vacation leave, are entitled to one day of paid vacation leave in each subsequent school year. An employee who is terminated or resigns before taking the leave day is not entitled to compensation for the day.

Requested by: Representatives Arnold, Grady, Preston, Moore, Senators Winner, Lee, Hartsell

LOSS OF BUDGET FLEXIBILITY UNDER CERTAIN CIRCUMSTANCES/PROHIBITION ON USE OF STATE FUNDS TO BUY OUT SUPERINTENDENTS' CONTRACTS

Section 8.7. (a) G.S. 115C-451 reads as rewritten:

"§ 115C-451. Reports to State Board of Education; failure to comply with School Budget Act.

(a) The State Board of Education shall have authority to require local school administrative units to make such reports as it may deem advisable with respect to the financial operation of the public schools.

(b) The State Board of Education shall be responsible for assuring that local boards of education comply with State laws and regulations regarding the budgeting, management, and expenditure of funds. When a local board of education willfully or negligently fails or refuses to comply with these laws and regulations, the State Board of Education shall issue a warning to the local board of education and direct it to take remedial action. In addition, the State Board may suspend the flexibility given to the local board under G.S. 115C-105.21A and may require the local board to use funds during the term of suspension only for the purposes for which they were allotted or for other purposes with the specific approval from the State Board.

(c) If the local board of education, after warning, persists in willfully or negligently failing or refusing to comply with these laws and regulations, the State Board of Education shall by resolution assume control of the financial affairs of the local board of education and shall appoint an administrator to exercise the powers assumed. The adoption of a resolution shall have the effect of divesting the local board of education of its powers as to the adoption of budgets, expenditure of money, and all other financial powers conferred upon the local board of education by law."

(b) G.S. 115C-271 reads as rewritten:

"§ 115C-271. Selection by local board of education, term of office.

~~Each local board of education shall elect a superintendent of schools for a term of one to four years, ending on June 30th of the final 12 months of the contract. The board of education may, with the written consent of the~~

~~current superintendent, extend or renew the term of the superintendent's contract at any time after the first 12 months of the contract; provided, however, that the current superintendent's contract may not be extended for a term of greater than four years; and provided, further, that if new board members have been elected or appointed and are to be sworn in, the board may not act to extend or renew the current superintendent's contract until after the new members have been sworn in. The term and conditions of employment shall be stated in a written contract which shall be entered into between the board of education and the superintendent. A copy of the contract shall be filed with the Superintendent of Public Instruction before any person is eligible for this office.~~

~~Contracts of employment for a period of less than one year shall be governed and limited by G.S. 115C-275.~~

~~It is the policy of the State of North Carolina that the superintendents of each of the several school administrative units be hired solely at the discretion of the local boards of education and that a candidate for superintendent of a local school administrative unit must have been, at least, a principal in a North Carolina public school or have equivalent experience as prescribed by the State Board of Education and have other minimum credentials, educational prerequisites and experience requirements as the State Board of Education shall prescribe. The State Board of Education is directed to promulgate prerequisites for candidacy for superintendent not later than January 1, 1985.~~

~~If any board of education shall elect a person to serve as superintendent of schools in any local school administrative unit who is not qualified, or cannot qualify, according to this section, such election is null and void and it shall be the duty of such board of education to elect a person who can qualify.~~

(a) It is the policy of the State that each local board of education has the sole discretion to elect a superintendent of schools. However, the State Board shall adopt rules that establish the qualifications for election. At a minimum, each superintendent shall have been a principal in a North Carolina public school or shall have equivalent experience. In addition, the State Board may establish other minimum credentials, educational prerequisites, and experience requirements. It is the duty of each local board to elect a superintendent who is qualified. If a local board elects a superintendent who is not qualified or who cannot qualify under this section, then the election and contract are null and void, and the board shall elect a person who is qualified.

(b) Each local board of education shall elect a superintendent under a written contract of employment for a term of no more than four years, ending on June 30 of the final months of the contract. Contracts of employment for a period of less than one year shall be governed and limited by G.S. 115C-275. Each local board shall file a copy of the contract with the State Board of Education before the individual is eligible for this office.

(c) At any time after the first 12 months of the contract, a local board may, with the written consent of the current superintendent, extend or renew the term of the superintendent's contract for a term of no more than four years from the date of the extension. If new board members have been

elected or appointed and are to be sworn in, a board shall not act to extend or renew the current superintendent's contract until after the new members have been sworn in.

(d) A local board may terminate the superintendent's contract before the contract term of employment has expired so long as all the following conditions are met:

- (1) No State funds are used for this purpose.
- (2) Local funds appropriated for teachers, textbooks, or classroom materials, supplies, and equipment are not transferred or used for this purpose.
- (3) The local board makes public the funds that are to be transferred or used for this purpose.
- (4) The local board notifies the State Board of the funds that are to be transferred or used for this purpose.
- (5) No funds acquired through donation or fund-raising are used for this purpose, except for funds raised specifically for this purpose or for funds donated by private for-profit corporations.

Immediately upon receipt of the notification from a local board under this subsection, the State Board shall review the accounts of that local school administrative unit. If the State Board finds that the local board failed to meet all the conditions set out in this subsection, the State Board shall issue a warning to the local board as provided in G.S. 115C-451 and, in addition to any other actions the State Board may take under G.S. 115C-451, shall order the local board to take action to comply with this subsection."

Requested by: Senators Winner, Lee, Representatives Arnold, Grady, Preston

DELETE REPORT ON GUARANTEED ENERGY SAVINGS CONTRACTS

Section 8.8. Section 9 of Chapter 775 of the 1993 Session Laws is repealed.

Requested by: Senators Winner, Lee, Representatives Arnold, Grady, Preston

SCHOOL PAY DATE FLEXIBILITY PILOT PROGRAM

Section 8.9. The State Board of Education may continue a pilot program to grant no more than four local boards of education additional flexibility in setting the pay dates for their 10-month employees. Notwithstanding the provisions of G.S. 115C-302(a) and G.S. 115C-316(a), local school administrative units participating in the pilot may pay 10-month employees for a full month of employment when days employed are less than a full month at the beginning or the end of the teachers' contracts. No local school administrative unit shall be required to participate in the pilot. A local board participating in the pilot shall bear all of the cost of recouping funds prepaid for work never done and the cost of these funds that cannot be recouped.

The State Board of Education shall report to the Joint Legislative Education Oversight Committee on the pilot program prior to September 15, 1998.

Requested by: Senators Winner, Lee, Hartsell, Representatives Arnold, Grady, Preston, Moore

ALTERNATIVE SCHOOLS/AT-RISK STUDENTS

Section 8.10. (a) Local boards of education may use funds from the Alternative Schools/At-Risk Student allotment to form partnerships with the Communities In Schools Program or to contract with the Communities In Schools Program for services.

(b) Local boards of education shall not use these State funds in the Alternative Schools/At-Risk Student allotment to supplant local funds.

(c) The State Board of Education may use up to two hundred thousand dollars (\$200,000) of the funds in the Alternative Schools/At-Risk Student allotment to implement G.S. 115C-12(24).

Requested by: Senators Winner, Lee, Foxx, Representatives Arnold, Grady, Preston

ADVANCED PLACEMENT TESTS

Section 8.11. (a) Advanced Placement tests are taken by many high school students who are seeking college credit for coursework completed in high school. The Board of Governors of The University of North Carolina is encouraged to develop a standardized system of credit for the Advanced Placement test scores to ensure that college credit granted for Advanced Placement courses is equitable and predictable.

(b) The Board of Governors of The University of North Carolina shall encourage the University system to assist the public school systems of the State to provide education for teachers who are instructors of Advanced Placement courses.

(c) Notwithstanding any other provision of law, the State Board of Community Colleges shall allow a college to earn regular budget FTEs for a college level course taught to high school students even though the course instructor is a local high school teacher under contract, provided the following criteria are met:

- (1) The course does not duplicate or supplant the Advanced Placement courses or the other college level course offerings of the high school.
- (2) The contractual responsibilities of the high school teacher employed as an instructor for the course do not supplant the regular classroom and teaching responsibilities of the teacher.
- (3) The State Board of Community Colleges is satisfied that the substance, quality, and level at which the course is taught merits it being considered a college level course.

(d) The State Board of Education and the State Board of Community Colleges shall report to the Joint Legislative Education Oversight Committee by March 1, 1998, regarding the cooperative effort being made to encourage high school students to complete college general education courses through the community college system. The report shall include information about the curricula designed to encourage this effort, the number of students enrolled in college courses, and the fiscal impact of these efforts.

Requested by: Senators Winner, Lee, Hartsell, Representatives Arnold, Grady, Preston, Moore

DATA ON TEACHER ASSISTANTS' YEARS OF EXPERIENCE, CREDENTIALS, AND PLACEMENT ON LOCALLY ADOPTED SALARY SCHEDULES/REVIEW OF TEACHER ASSISTANT EDUCATION PROGRAMS AND STANDARDS

Section 8.12. (a) The State Board of Education shall:

- (1) Collect data on teacher assistants' years of experience in the public schools and in State and local government and the degrees that they hold; and
- (2) Collect data on locally adopted salary schedules for teacher assistants and the distribution of teacher assistants on the locally adopted schedules.

The State Board of Education shall report on the results of these studies to the Joint Legislative Education Oversight Committee prior to December 15, 1998.

(b) The State Board of Education, in cooperation with the State Board of Community Colleges and the Board of Governors of The University of North Carolina, shall:

- (1) Review existing teacher assistant education programs, including the program offered by the North Carolina Association of Teacher Assistants; and
- (2) Recommend whether there should be educational standards, goals, competencies, and certification for teacher assistants, and if so, what they should be, how those should be developed, and the cost of implementation.

The State Board of Education shall report on the results of these studies to the Joint Legislative Education Oversight Committee prior to March 15, 1998.

(c) The Joint Legislative Education Oversight Committee shall review the results of recent studies of noncertified public school personnel in North Carolina. The Joint Legislative Education Oversight Committee shall consider the results of these studies, any actions taken to implement the study recommendations, and the cost of implementing the remainder of these recommendations.

Requested by: Senators Winner, Lee, Hartsell, Representatives Arnold, Grady, Preston, Moore

CLASS-SIZE COMPUTATION FOR K-2

Section 8.13. The expansion budget funds appropriated by the 1993 and 1995 General Assemblies to provide teacher positions to reduce class size in kindergarten through second grade shall be allocated by the State Board of Education to local school administrative units on the basis of one teacher for every 23 students in each grade. Local school administrative units shall use these funds (i) to reduce class size in kindergarten through second grade or (ii) to hire reading teachers within kindergarten through second grade or otherwise reduce the student-teacher ratio within kindergarten through second grade.

Notwithstanding the provisions of G.S. 115C-301(c), both the maximum average class size for the grade span kindergarten, first grade, and second grade, and the maximum size of an individual class within the grade span shall be 26 students.

Requested by: Senators Winner, Lee, Hartsell, Representatives Arnold, Grady, Preston, Moore

ABC'S PERFORMANCE RECOGNITION FOR PERSONNEL SERVING PREKINDERGARTEN THROUGH TWELFTH GRADE

Section 8.14. G.S. 115C-105.36(a) reads as rewritten:

"(a) The personnel in schools that achieve a level of expected growth greater than one hundred percent (100%) at a level to be determined by the State Board of Education are eligible for financial awards in amounts set by the State Board. Schools and personnel shall not be required to apply for these awards. For the purpose of this section, 'personnel' includes the principal, assistant principal, instructional personnel, instructional support personnel, and teacher assistants ~~assigned to that school.~~ (i) serving students in one or more of the grades kindergarten through 12 or (ii) assigned to a public school prekindergarten program that is located within a public elementary school and is designed to prepare students for kindergarten at that school."

Requested by: Senators Winner, Lee, Representatives Arnold, Grady, Preston

SCHOOL LAW REVISION SUBCOMMITTEE EXTENDED

Section 8.15. (a) The cochairs of the Joint Legislative Education Oversight Committee may appoint a subcommittee to revise the public school laws.

The subcommittee shall consist of equal numbers of members appointed by the Senate chair and the House chair. Either chair may appoint to the subcommittee members, including public members, who are not also members of the Committee.

Members of the subcommittee who are not members of the Committee may participate fully in all subcommittee business, including all deliberations and votes; however, these members are not members of the Committee for any other purpose.

(b) The subcommittee may:

- (1) Conduct a comprehensive review of the public school laws;
- (2) Identify laws that are outdated, vague, unnecessary, or otherwise in need of revision; and
- (3) Recommend revisions to the public laws so they are consistent with the North Carolina Constitution and with the goals of the General Assembly and the State Board of Education in order to improve student performance, increase local flexibility and control, and promote economy and efficiency.

Requested by: Senators Winner, Lee, Hartsell, Representatives Arnold, Grady, Preston, Moore

AVID PROGRAM

Section 8.16. Of the funds appropriated to the State Board of Education, the sum of one hundred fifty thousand dollars (\$150,000) for the 1997-98 fiscal year and the sum of one hundred fifty thousand dollars (\$150,000) for the 1998-99 fiscal year shall be used to implement Advancement Via Individual Determination (AVID) pilot programs in three local school administrative units. The purpose of the AVID pilot programs shall be to improve the academic performance of underachieving students so that they will become eligible to attend postsecondary education institutions. Local school administrative units selected as pilot units shall state how they plan to evaluate the success of the program.

The State Board of Education shall allocate the funds to the pilot programs in proportion to the number of students proposed to be served.

Requested by: Senators Winner, Lee, Representatives Arnold, Grady, Preston

DISTANCE LEARNING PROGRAM

Section 8.17. Notwithstanding any other provision of law, funds appropriated to the State Board of Education and to State Aid to Local School Administrative Units for the Distance Learning Program shall be used for distance learning educational purposes, as directed by the State Board of Education.

Requested by: Senators Winner, Lee, Representatives Arnold, Grady, Preston

CRIME CONTROL GRANTS FOR THE N.C. CENTER FOR THE PREVENTION OF SCHOOL VIOLENCE

Section 8.18. The Secretary of Crime Control and Public Safety shall continue to make grants for the 1997-99 fiscal biennium for the operating expenses of the North Carolina Center for the Prevention of School Violence. If grant funds are not available for this purpose, the Board of Governors of The University of North Carolina may use funds within its budget for the expenses of the Center.

Requested by: Senator Perdue

CHARTER SCHOOL REQUIREMENTS

Section 8.19. (a) G.S. 115C-238.29F(f) reads as rewritten:

"(f) Accountability. --

- (1) The school is subject to the financial audits, the audit procedures, and the audit requirements adopted by the State Board of Education for charter schools. These audit requirements may include the requirements of the School Budget and Fiscal Control Act.
- (2) The school shall comply with the reporting requirements established by the State Board of Education in the Uniform Education Reporting System.
- (3) The school shall report at least annually to the chartering entity and the State Board of Education the information required by the chartering entity or the State Board."

(b) If the projected average daily membership of schools other than charter schools in a county school administrative unit with 3,000 or less students is decreased by more than four percent (4%) due to projected shifts of enrollment to charter schools, the State Board of Education may use funds appropriated to State Aid to Local School Administrative Units for the 1997-98 fiscal year to reduce the loss of funds to the schools other than charter schools in the unit to a maximum of four percent (4%). This subsection applies to the 1997-98 fiscal year only, which is the first year of operation of charter schools.

(c) The State Board of Education may spend up to fifty thousand dollars (\$50,000) from State Aid to Local School Administrative Units for the 1997-98 fiscal year to establish a charter school advisory committee.

Requested by: Senators Perdue, Winner, Lee, Hartsell, Representatives Arnold, Grady, Preston, Moore

CIVIL PENALTY AND FORFEITURE FUND ESTABLISHED

Section 8.20. (a) Chapter 115C of the General Statutes is amended by adding a new Article to read:

"ARTICLE 31A.

"Civil Penalty and Forfeiture Fund.

"§ 115C-457.1. Creation of Fund; administration.

(a) There is created the Civil Penalty and Forfeiture Fund. The Fund shall consist of the clear proceeds of all civil penalties and civil forfeitures that are collected by a State agency and are payable to the County School Fund pursuant to Article IX, Section 7 of the Constitution.

(b) The Fund shall be administered by the Office of State Budget and Management. The Fund and all interest accruing to the Fund shall be faithfully used exclusively for maintaining free public schools.

"§ 115C-457.2. Remittance of moneys to the Fund.

The clear proceeds of all civil penalties and civil forfeitures that are collected by a State agency and are payable to the County School Fund pursuant to Article IX, Section 7 of the Constitution shall be remitted to the Office of State Budget and Management by the officer having custody of the funds within 10 days after the close of the calendar month in which the revenues were received or collected. Notwithstanding any other law, all funds which are civil penalties or civil forfeitures within the meaning of Article IX, Section 7 of the Constitution shall be deposited in the Civil Penalty and Forfeiture Fund. The clear proceeds of such funds include the full amount of all such penalties and forfeitures collected under authority conferred by the State, diminished only by the actual costs of collection, not to exceed ten percent (10%) of the amount collected.

"§ 115C-457.3. Transfer of funds to the State School Technology Fund.

The Office of State Budget and Management shall transfer funds accruing to the Civil Penalty and Forfeiture Fund to the State School Technology Fund. These funds shall be allocated to local school administrative units on the basis of average daily membership."

(b) This section becomes effective September 1, 1997.

Requested by: Senators Winner, Lee, Representatives Arnold, Grady, Preston

AVAILABILITY OF FUNDS ALLOCATED FOR STAFF DEVELOPMENT

Section 8.21. G.S. 115C-417 reads as rewritten:

"§ 115C-417. Availability of funds allocated for staff development.

Funds allocated by the State Board of Education for staff development at the local level shall become available for expenditure on ~~September 1~~ July 1 of each fiscal year and shall remain available for expenditure until ~~August 31~~ December 31 of the subsequent fiscal year."

Requested by: Senators Winner, Lee, Representatives Arnold, Grady, Preston

TEACHER CERTIFICATION

Section 8.22. (a) The State Board of Education shall establish an advisory committee to assist it in studying the lateral entry program, a program which encourages lateral entry into the profession of teaching by skilled individuals from the private sector. In the course of the study, the State Board shall consider the recruitment, retention, training, and evaluation of persons who enter the teaching profession by lateral entry. The State Board shall place special emphasis on lateral entry of teachers at the high school level who have significant postbachelors degree experience.

The State Board of Education shall report the results of its study to the Joint Legislative Education Oversight Committee prior to April 15, 1998.

(b) The State Board of Education shall review the issue of certifying out-of-state teachers to determine how to facilitate the certification in North Carolina of qualified teachers who are trained in other states. The State Board of Education shall report the results of this review to the Joint Legislative Education Oversight Committee prior to December 15, 1998.

(c) Article 14 of Chapter 116 of the General Statutes is amended by adding a new section to read:

"§ 116-143.5. Tuition of certain teachers.

Notwithstanding G.S. 116-143.1, any teacher or other personnel paid on the teacher salary schedule who (i) has established a legal residence (domicile) in North Carolina and (ii) is employed full-time by a North Carolina public school, shall be eligible to be charged the in-State tuition rate for courses relevant to teacher certification or to professional development as a teacher."

Requested by: Senators Winner, Lee, Representatives Arnold, Grady, Preston

FUNDS FOR NATIONAL BOARD FOR PROFESSIONAL TEACHING STANDARDS

Section 8.23. (a) Funds appropriated to the Department of Public Instruction in this act shall be used to pay for the National Board for Professional Teaching Standards (NBPTS) participation fee and for up to three days of approved paid leave for teachers participating in the NBPTS program during the 1997-98 school year and the 1998-99 fiscal year for State-paid teachers who (i) have completed three years of teaching in North Carolina schools operated by local boards of education, the Department of

Human Resources, the Department of Correction, or The University of North Carolina, or affiliated with The University of North Carolina, prior to application for NBPTS certification, and (ii) have not previously received State funds for participating in any certification area in the NBPTS program. Teachers participating in the program shall take paid leave only with the approval of their supervisors.

A teacher for whom the State pays the participation fee (i) who does not complete the process or (ii) who completes the process but does not teach in a North Carolina public school for at least one year after completing the process, shall repay the certification fee to the State. Repayment is not required if the process is not completed or the teacher fails to teach for one year due to the death or disability of the teacher or other extenuating circumstances as may be recognized by the State Board.

(b) The State Board shall adopt policies and guidelines to implement this section.

Requested by: Senators Winner, Lee, Representatives Daughtry, Arnold, Grady, Preston

PUBLIC-PRIVATE PARTNERSHIP TO EXPAND TECHNOLOGY IN PUBLIC SCHOOLS

Section 8.24. (a) Of the funds appropriated to the State Board of Education, the sum of five hundred thousand dollars (\$500,000) for the 1997-98 fiscal year and the sum of five hundred thousand dollars (\$500,000) for the 1998-99 fiscal year shall be used to establish a public-private partnership to encourage, promote, and expand technology in North Carolina Public Schools.

(b) The purposes of the public-private partnership are to enlist public, private, and volunteer sectors to develop creative means of bringing technology to North Carolina Public School classrooms at minimal cost and expense to the State and its taxpayers:

- (1) Help schools wire classrooms with high-speed data wire that enables them to connect to school networks as well as the Internet.
- (2) Develop a plan to increase the number of computers, computing equipment, and networking equipment in North Carolina Public Schools.
- (3) Develop a plan that will assure every school can connect to the Internet so that this tool is made available equally to all children in North Carolina Public Schools.
- (4) Help develop programs to train teachers and other educators in the use of technology.
- (5) Develop Internet-based learning programs designed to assist teachers in the job of helping young people learn.
- (6) Test and evaluate the benefits of each of the projects; investigate and develop other means of using computer-based technology in classrooms; and assure that this information is available to educators.

(c) Pursuant to subdivision (2) of subsection (b) of this section, a vocational education computer recycling pilot program shall be established. The purposes of the pilot program are to:

- (1) Develop and implement high school vocational education programs that train students to test, repair, reconfigure, upgrade, and maintain donated computers.
 - (2) Enhance a community's opportunities for economic development by providing vocational education students with educational, job, and hireability skills as well as skills in computer technology.
 - (3) Provide upgraded computers to schools, consistent with State-approved local school technology plans at a cost of four hundred dollars (\$400.00) to six hundred dollars (\$600.00) per unit rather than new computers costing around three thousand dollars (\$3,000) each.
 - (4) Help communities support their schools by encouraging business and industry to donate computer components to schools or sell them at greatly reduced prices.
 - (5) The State Board of Education, after consultation with ExplorNet, shall select seven local administrative units to participate in the computer recycling program. In selecting the pilot units, the State Board shall consider (i) indicators of the readiness of a unit to participate in the program, (ii) the degree of community support for such a program, and (iii) indicators of the need for the program in the community, such as lack of comparable training or resources in the community.
 - (6) The Information Resources Management Commission, in consultation with the State Board of Education, shall review and modify its standards for technical components of local school technology purchases to facilitate the implementation of the programs.
- (d) The State Board of Education shall contract with the nonprofit corporation, ExplorNet, to administer the programs.
- (e) The provisions of Article 3 of Chapter 143 of the General Statutes do not apply to contracts for supplies, materials, equipment, and contractual services to implement these programs. The Department of Administration may make its services available to the State Board of Education, when requested by the State Board of Education.
- (f) The State Board of Education shall evaluate the educational components of the programs.

The State Board's contract with ExplorNet shall require ExplorNet to evaluate the technical components of the program and to submit the results of its evaluation to the Information Resources Management Commission for review and comment by May 15, 1999. The Information Resources Management Commission shall submit the evaluation done by ExplorNet and the Commission's comments on it to the State Board of Education by August 15, 1999.

The State Board of Education shall report the results of these evaluations to the Joint Legislative Education Oversight Committee by September 15, 1999.

Requested by: Senators Winner, Lee, Representatives Arnold, Grady, Preston

UNIFORM EDUCATION REPORTING SYSTEMS FUNDS/BUILDING LEVEL REPORTS ON SCHOOL FUNDING

Section 8.25. (a) Funds appropriated for the 1997-99 fiscal biennium for the Uniform Education Reporting System shall be used for the maintenance, enhancement, or purchase of financial, personnel, or student information software, in order to support the State Board of Education's responsibilities under G.S. 115C-12(18).

(b) The State Board of Education shall modify the Uniform Education Reporting System to provide clear, accurate, and standard information on the use of funds at the unit and school level. The plan shall provide information that will enable the General Assembly to determine State, local, and federal expenditures for personnel at the unit and school level. The plan also shall allow the tracking of expenditures for textbooks, educational supplies and equipment, capital outlay, at-risk students, and other purposes. The revised Uniform Education Reporting System shall be implemented beginning with the 1998-99 school year.

Requested by: Senators Winner, Lee, Representatives Arnold, Grady, Preston

LEGISLATORS MAY SERVE ON SCHOOL TECHNOLOGY COMMISSION

Section 8.26. (a) G.S. 115C-102.5, as amended by Section 7 of S.L. 1997-148, reads as rewritten:

"§ 115C-102.5. *Commission on School Technology created; membership.*

(a) There is created the Commission on School Technology. The Commission shall be located administratively in the Department of Public Instruction but shall exercise all its prescribed statutory powers independently of the Department of Public Instruction.

(b) The Commission shall consist of the following 16 18 members:

- (1) The State Superintendent of Public Instruction or a designee;
- (2) One representative of The University of North Carolina, appointed by the President of The University of North Carolina;
- (3) One representative of the North Carolina Community College System, appointed by the President of the North Carolina Community College System;
- (4) A person with management responsibility concerning information technology related State Government functions, designated by the Secretary of Commerce;
- (5) Four members appointed by the Governor;
- (6) ~~Four~~ Six members appointed by the ~~General Assembly upon the recommendation of the~~ President Pro Tempore of the Senate in accordance with G.S. 120-121, two of whom shall be members of the Senate. ~~one of whom~~ One of these six members shall be recommended appointed by the President of the Senate to serve as cochair; and
- (7) ~~Four~~ Six members appointed by the ~~General Assembly upon the recommendation of the~~ Speaker of the House of Representatives in accordance with G.S. 120-121, two of whom shall be members of the House of Representatives. one of whom One of these six

members shall be recommended, appointed by the Speaker of the House of Representatives to serve as cochair.

In appointing members pursuant to subdivisions (5), (6), and (7) of this subsection, the appointing ~~entities~~ persons shall select individuals with technical or applied knowledge or experience in learning and instructional management technologies or individuals with expertise in curriculum or instruction who have successfully used learning and instructional management technologies.

No producers, vendors, or consultants to producers or vendors of learning or instructional management technologies shall serve on the Commission.

Members shall serve for two-year terms. Vacancies in terms of members ~~appointed by the Governor shall be filled by the appointing officer. Vacancies in terms of members appointed by the General Assembly shall be filled in accordance with G.S. 120-122.~~ Persons appointed to fill vacancies shall qualify in the same manner as persons appointed for full terms.

~~(c) Notwithstanding G.S. 120-123 and subsection (b) of this section, the Commission shall also include one member of the Senate appointed by the President Pro Tempore of the Senate and one member of the House of Representatives appointed by the Speaker of the House of Representatives. These members shall be voting members. The term of office of these members shall end November 1, 1994.~~

(d) Members of the Commission who are also members of the General Assembly shall be paid subsistence and travel expenses at the rate set forth in G.S. 120-3.1. Members of the Commission who are officials or employees of the State shall receive travel allowances at the rate set forth in G.S. 138-6. All other members of the Commission shall be paid the per diem and allowances set forth in G.S. 138-5.

(e) The Department of Public Instruction, the Department of Community Colleges, and the Office of the State Controller shall provide requested professional and clerical staff to the Commission. The Commission may also employ professional and clerical staff and may hire outside consultants to assist it in its work. The Commission shall use an outside consultant to perform a requirements analysis for learning and instructional management technologies on a statewide basis that is based on information gathered from each local school administrative unit and that considers the needs of teachers, students, and administrators."

(b) G.S. 115C-102.6B reads as rewritten:

"§ 115C-102.6B. *Approval of State school technology plan.*

(a) The Commission shall present the State school technology plan it develops to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Education Oversight Committee for their comments prior to January 1, 1995. At least every two years thereafter, the Commission shall develop any necessary modifications to the State school technology plan and present them to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Education Oversight Committee.

(b) After presenting the plan or any proposed modifications to the plan to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Education Oversight Committee, the Commission shall submit the

plan or any proposed modifications to (i) the Information Resources Management Commission for its approval of the technical components of the plan set out in G.S. 115C-102.6A(1) through (4), and (ii) the State Board of Education for its approval of information purposes only. The State Board shall adopt a plan that includes the components of ~~the~~ a plan set out in G.S. 115C-103.6A(1) through (16).

At least one-fourth of the members of any technical committee that reviews the plan for the Information Resources Management Commission shall be people actively involved in primary or secondary education.

(c) If no changes are made to the plan or the proposed modifications to the plan after the submission to the Information Resources Management Commission and the State Board of Education, the plan or the proposed modifications shall take effect upon approval by the Information Resources Management Commission and the State Board of Education."

(c) G.S. 120-123(60) is repealed.

(d) This section is effective when this act becomes law.

Requested by: Senators Winner, Lee, Hartsell, Representatives Arnold, Grady, Preston, Moore

RIGOROUS ACADEMIC CONTENT STANDARDS/PROFICIENCY BENCHMARKS

Section 8.27. (a) G.S. 115C-12 is amended by adding the following new subdivision to read:

"(9a) Power to Develop Content Standards. -- The Board shall develop a comprehensive plan to revise content standards and the standard course of study in the core academic areas of reading, writing, mathematics, science, history, geography, and civics. The Board shall involve and survey a representative sample of parents, teachers, and the public to help determine academic content standard priorities and usefulness of the content standards. A full review of available and relevant academic content standards that are rigorous, specific, sequenced, clear, focused, and measurable, whenever possible, shall be a part of the process of the development of content standards. The revised content standards developed in the core academic areas shall (i) reflect high expectations for students and an in-depth mastery of the content; (ii) be clearly grounded in the content of each academic area; (iii) be defined grade-by-grade and course-by-course; (iv) be understandable to parents and teachers; (v) be developed in full recognition of the time available to teach the core academic areas at each grade level; and (vi) be measurable, whenever possible, in a reliable, valid, and efficient manner for accountability purposes.

High school course content standards shall include the knowledge and skills necessary to enter the workforce and also shall be aligned with the coursework required for admission to the constituent institutions of The University of North Carolina. The Board shall develop and implement a plan for end-of-course tests for the minimum courses required for admission to the

constituent institutions. All end-of-course tests shall be aligned with the content standards.

The Board also shall develop and implement an ongoing process to align State programs and support materials with the revised academic content standards for each core academic area every five years. Alignment shall include revising textbook criteria, support materials, State tests, teacher and school administrator preparation, and ongoing professional development programs to be compatible with content standards. The Board shall develop and make available to teachers and parents support materials, including teacher and parent guides, for academic content standards. The State Board of Education shall work in collaboration with the Board of Governors of The University of North Carolina to ensure that teacher and school administrator degree programs, ongoing professional development and other university activity in the State's public schools align with the State Board's priorities."

(b) The State Board of Education shall report to the Joint Legislative Education Oversight Committee by December 15, 1998, on the implementation of this section, including the Board's comprehensive plan to revise content standards and the standard course of study and the Board's proposed timetable to align State programs and support materials with these standards so that the first cycle of alignment is completed by December 31, 2002. The Board, in its report, may recommend any necessary statutory changes.

(c) The North Carolina Standards and Accountability Commission has completed its work and submitted a report to the State Board of Education. Therefore, effective August 1, 1997, Article 8A of Chapter 115C of the General Statutes is repealed.

Recognizing the important role of the Commission's work, there is established the Committee on Standards and Accountability. The Committee shall advise the State Board of Education on student performance standards. The Committee shall be composed of 13 members, nine appointed by the Governor, two appointed by the President Pro Tempore of the Senate, and two appointed by the Speaker of the House of Representatives. Of the Governor's nine appointments, one shall be for a chair of the Committee. The chair shall be a person in North Carolina who understands the connection of high and rigorous standards with student preparation for the world of work and other post-high school opportunities.

(d) Funds appropriated for the Standards and Accountability Commission for the 1997-99 fiscal biennium shall be used by the State Board of Education to implement the provisions of this section. Of these funds, up to twenty-five thousand dollars (\$25,000) may be used for expenses of the Committee on Standards and Accountability established under subsection (c) of this section.

(e) G.S. 115C-12 is amended by adding the following new subdivision to read:

"(9b) Power to Develop Exit Exams. -- The Board shall develop a plan to implement high school exit exams, grade-level student

proficiency benchmarks, student proficiency benchmarks for academic courses required for admission to constituent institutions of The University of North Carolina, and student proficiency benchmarks for the knowledge and skills necessary to enter the workforce. The State Board may develop student proficiency benchmarks for other courses offered to secondary school students. The high school exit exams and student proficiency benchmarks shall be aligned with G.S. 115C-12(9a) and may contain pertinent components of the school-based accountability annual performance goals."

(f) The State Board shall implement the high school exit exams by the spring semester of the 1999-2000 school year. The State Board may extend that date if it determines that it is not practically feasible to implement the exams by the year 2000. Prior to December 15, 1998, the State Board of Education shall provide to the Joint Legislative Education Oversight Committee a progress report on the plan required under subsection (e) of this section. The Board, in its report, may recommend any statutory changes it considers necessary to implement the plan.

(g) The State Board of Education shall study the feasibility of requiring two high school courses in United States history and two high school courses in Economic, Legal, and Political Systems in Action as a condition of graduation. The State Board shall report the results of this study to the Joint Legislative Education Oversight Committee prior to December 15, 1998.

Requested by: Senators Rand, Winner, Lee, Hartsell, Representatives Arnold, Grady, Preston, Moore

SPECIAL NEEDS CHILDREN FUNDS

Section 8.28. Of the funds appropriated to the State Board of Education, the sum of five hundred thousand dollars (\$500,000) for the 1997-98 fiscal year shall be allocated to local educational agencies for children with special needs reassigned to group homes but not included in the head count of children with special needs upon which the original funding for local educational agencies was based or for children with special needs in counties with special populations that frequently fluctuate in numbers such as military personnel. The State Board of Education shall allocate these funds upon applications made by local educational agencies.

Requested by: Senators Winner, Lee, Hartsell, Representatives Arnold, Grady, Preston, Black, Moore

SAFE SCHOOLS

Section 8.29. (a)

- (1) Of the funds appropriated to State Aid to Local School Administrative Units, the State Board of Education may use up to five hundred thousand dollars (\$500,000) for the 1997-98 fiscal year and up to five hundred thousand dollars (\$500,000) for the 1998-99 fiscal year to provide assistance teams to schools to assist those schools in restoring safety and order.

- (2) Effective when this act becomes law, Part 2 of Article 8B of Chapter 115C of the General Statutes is amended by adding the following new section:

"§ 115C-105.28. Safe and orderly schools.

A school improvement team or a parent organization at a school may ask the local board of education to provide assistance in promoting or restoring safety and an orderly learning environment at a school. The school improvement team or parent organization shall file a copy of this request with the State Board. If the local board fails to provide adequate assistance to the school, then the school improvement team or parent organization may ask the State Board to provide an assistance team to the school.

The State Board may provide an assistance team, established under G.S. 115C-105.38, to a school in order to promote or restore safety and an orderly learning environment at that school if one of the following applies:

- (1) The local board of education or superintendent requests that the State Board provide an assistance team to a school and the State Board determines that the school needs assistance.
- (2) The State Board determines within 10 days after its receipt of the request for assistance from a school improvement team or parent organization of a school that the school needs assistance and that the local board has failed to provide adequate assistance to that school:

If an assistance team is assigned to a school under this section, the team shall spend a sufficient amount of time at the school to assess the problems at the school, assist school personnel with resolving those problems, and work with school personnel and others to develop a long-term plan for restoring and maintaining safety and an orderly learning environment at the school. The assistance team also shall make recommendations to the local board of education and the superintendent on actions the board and the superintendent should consider taking to resolve problems at the school. These recommendations shall be in writing and are public records. If an assistance team is assigned to a school under this section, the powers given to the State Board and the assistance team under G.S. 115C-105.38 and G.S. 115C-105.39 shall apply as if the school had been identified as low-performing under this Article."

(b) Effective when this act becomes law, Chapter 115C of the General Statutes is amended by adding a new Article to read:

"ARTICLE 27A.

"Management and Placement of Disruptive Students.

"§ 115C-397.1. Management and placement of disruptive students.

If, after a teacher has requested assistance from the principal two or more times due to a student's disruptive behavior, the teacher finds that the student's disruptive behavior continues to interfere with the academic achievement of that student or other students in the class, then the teacher may refer the matter to a school-based committee. The teacher may request that additional classroom teachers participate in the committee's proceedings. For the purposes of this section, the committee shall notify the student's parent, guardian, or legal custodian and shall encourage that person's participation in the proceedings of the committee concerning the student. A

student is not required to be screened, evaluated, or identified as a child with special needs under this section. The committee shall review the matter and shall take one or more of the following actions: (i) advise the teacher on managing the student's behavior more effectively, (ii) recommend to the principal the transfer of the student to another class within the school, (iii) recommend to the principal a multidisciplinary diagnosis and evaluation of the student, (iv) recommend to the principal that the student be assigned to an alternative learning program, or (v) recommend to the principal that the student receive any additional services that the school or the school unit has the resources to provide for the student. If the principal does not follow the recommendation of the committee, the principal shall provide a written explanation to the committee, the teacher who referred the matter to the committee, and the superintendent, of any actions taken to resolve the matter and of the reason the principal did not follow the recommendation of the committee.

This section shall be in addition to and supplemental to disciplinary action taken in accordance with any other law. The recommendation of the committee is final and shall not be appealed under G.S. 115C-45(c). Nothing in this section shall authorize a student to refer a disciplinary matter to this committee or to have the matter of the student's behavior referred to this committee before any discipline is imposed on the student."

(c) Of the funds appropriated to State Aid to Local School Administrative Units, the sum of three million two hundred thousand dollars (\$3,200,000) for the 1997-98 fiscal year and the sum of three million two hundred thousand dollars (\$3,200,000) for the 1998-99 fiscal year shall be used to provide additional teachers for middle school children who are academically below grade level. Middle school children are children in a school that serves grades six, seven, and eight, and no other grades.

- (1) The State Board of Education shall allocate these teacher positions to pilot middle schools on the basis of the number of students in grade six who scored at proficiency Level I on the end-of-grade test in mathematics, on the end-of-grade test in reading, or on both, at the end of their last school year. The funds shall be used in schools that have at least 50 such students at a ratio of one teacher to every 50 students. No partial positions shall be allocated.
- (2) The purpose of these funds is to improve the academic performance and the behavior of these students during the first school year after elementary school by placing them in classes with a low student-to-teacher ratio for either all of their core academic subjects or for the subject or subjects in which they are below grade level. In order to accomplish this purpose, local school administrative units shall use (i) the teachers allocated for these students pursuant to the regular teacher allotment and (ii) the teachers allocated for these students under this section only to improve the academic performance and the behavior of these students. Local boards of education shall adopt rules to ensure that each student for whom funds for additional teacher positions are

allocated under this section shall be assigned a teacher who is responsible for monitoring the academic progress of the student.

- (3) Of the funds appropriated in this section, the State Board of Education may use up to twenty-five thousand dollars (\$25,000) to evaluate the effectiveness of these smaller classes in improving academic performance and discipline in middle schools.

(d) Effective November 1, 1997, G.S. 115C-366 is amended by adding the following new subsections to read:

"(a4) When a student transfers into the public schools of a local school administrative unit, that local board shall require the student's parent, guardian, or custodian to provide a statement made under oath or affirmation before a qualified official indicating whether the student is, at the time, under suspension or expulsion from attendance at a private or public school in this or any other state or has been convicted of a felony in this or any other state. This subsection does not apply to the enrollment of a student who has never been enrolled in or attended a private or public school in this or any other state.

(a5) Notwithstanding any other law, a local board may deny admission to or place reasonable conditions on the admission of a student who has been suspended from a school under G.S. 115C-391 or who has been suspended from a school for conduct that could have led to a suspension from a school within the local school administrative unit where the student is seeking admission until the period of suspension has expired. Also, a local board may deny admission to or place reasonable conditions on the admission of a student who has been expelled from a school under G.S. 115C-391 or who has been expelled from a school for behavior that indicated the student's continued presence in school constituted a clear threat to the safety of other students or employees or who has been convicted of a felony in this or any other state. If the local board denies admission to a student who has been expelled or convicted of a felony, the student may request the local board to reconsider that decision in accordance with G.S. 115C-391(d)."

(e) Effective November 1, 1997, Article 54 of Chapter 7A of the General Statutes is amended by adding the following new section to read:

"§ 7A-675.2. Notification of schools when juveniles are alleged or found to be delinquent.

(a) Notwithstanding G.S. 7A-675, the juvenile court counselor shall deliver verbal and written notification of the following actions to the principal of the school that the juvenile attends:

- (1) A petition is filed under G.S. 7A-560 that alleges delinquency for an offense that would be a felony if committed by an adult;
- (2) The judge transfers jurisdiction over a juvenile to superior court under G.S. 7A-608;
- (3) The judge dismisses under G.S. 7A-637 the petition that alleges delinquency for an offense that would be a felony if committed by an adult;
- (4) The judge issues a dispositional order under Article 52 of Chapter 7A of the General Statutes including, but not limited to, an order of probation that requires school attendance, concerning a juvenile

alleged or found delinquent for an offense that would be a felony if committed by an adult; or

- (5) The judge modifies or vacates any order or disposition under G.S. 7A-664 concerning a juvenile alleged or found delinquent for an offense that would be a felony if committed by an adult.

Notification of the school principal in person or by telephone shall be made before the beginning of the next school day. Delivery shall be made as soon as practicable but at least within five days of the action. Delivery shall be made in person or by certified mail. Notification that a petition has been filed shall describe the nature of the offense. Notification of a dispositional order, a modified or vacated order, or a transfer to superior court shall describe the judge's action and any applicable disposition requirements. As used in this subsection, the term 'offense' shall not include any offense under Chapter 20 of the General Statutes.

(b) If the principal of the school the juvenile attends returns any notification as required by G.S. 115C-404, and if the juvenile court counselor learns that the juvenile is transferring to another school, the juvenile court counselor shall deliver the notification to the principal of the school to which the juvenile is transferring. Delivery shall be made as soon as practicable and shall be made in person or by certified mail.

(c) Principals shall handle any notification delivered under this section in accordance with G.S. 115C-404.

(d) For the purpose of this section, 'school' means any public or private school in the State that is authorized under Chapter 115C of the General Statutes."

(f) Effective November 1, 1997, Article 29 of Chapter 115C of the General Statutes is amended by adding a new section to read:

"§ 115C-404. Use of juvenile court information.

(a) Written notifications received in accordance with G.S. 7A-675.1 are confidential records, are not public records as defined under G.S. 132-1, and shall not be made part of the student's official record under G.S. 115C-402. Immediately upon receipt, the principal shall maintain these documents in a safe, locked record storage that is separate from the student's other school records. The principal shall maintain these documents until the principal receives notification that the judge dismissed the petition under G.S. 7A-637, the judge transferred jurisdiction over the student to superior court under G.S. 7A-608, or the judge granted the student's petition for expunction of the records. At that time, the principal shall shred, burn, or otherwise destroy the documents to protect the confidentiality of this information. In no case shall the principal make a copy of these documents.

(b) Documents received under this section may be used only to protect the safety of or to improve the educational opportunities for the student or others. Upon receipt of each document, the principal shall share the document with those individuals who have (i) direct guidance, teaching, or supervisory responsibility for the student, and (ii) a specific need to know in order to protect the safety of the student or others. Those individuals shall indicate in writing that they have read the document and that they agree to maintain its confidentiality. Failure to maintain the confidentiality of these

documents as required by this section is grounds for the dismissal of an employee who is not a career employee and is grounds for dismissal of an employee who is a career employee, in accordance with G.S. 115C-325(c)(1)i.

(c) If the student graduates, withdraws from school, is suspended for the remainder of the school year, is expelled, or transfers to another school, the principal shall return the documents to the juvenile court counselor and, if applicable, shall provide the counselor with the name and address of the school to which the student is transferring."

(g) Effective November 1, 1997, G.S. 15A-505 reads as rewritten:

"§ 15A-505. Notification of ~~minor's parent.~~ parent and school.

(a) A law-enforcement law enforcement officer who charges a minor with a criminal offense shall notify the minor's parent or guardian of the charge, as soon as practicable, in person or by telephone. If the minor is taken into custody, the law enforcement officer or the officer's immediate superior shall notify a parent or guardian in writing that the minor is in custody within 24 hours of the minor's arrest. If the parent or guardian of the minor cannot be found, then the officer or the officer's immediate superior shall notify the minor's next-of-kin of the minor's arrest as soon as practicable.

(b) The notification provided for by subsection (a) of this section shall not be required if:

- (1) The minor is emancipated;
- (2) The minor is not taken into custody and has been charged with a motor vehicle moving violation for which three or fewer points are assessed under G.S. 20-16(c), except an offense involving impaired driving, as defined in G.S. 20-4.02(24a); or
- (3) The minor has been charged with a motor vehicle offense that is not a moving violation.

(c) A law enforcement officer who charges a person with a criminal offense that is a felony, except for a criminal offense under Chapter 20 of the General Statutes, shall notify the principal of any school the person attends of the charge as soon as practicable but at least within five days. The notification may be made in person or by telephone. If the person is taken into custody, the law enforcement officer or the officer's immediate supervisor shall notify the principal of any school the person attends. This notification shall be in writing and shall be made within five days of the person's arrest. If a principal receives notification under this subsection, a representative from the district attorney's office shall notify that principal of the final disposition at the trial court level. This notification shall be in writing and shall be made within five days of the disposition. As used in this subsection, the term 'school' means any public or private school in the State that is authorized under Chapter 115C of the General Statutes."

(h) The Board of Governors of The University of North Carolina shall develop a plan for ensuring that school administrator and teacher preparation and continuing education programs provide their students with the training and experience they need to maintain and restore safety and order in schools.

The Board of Governors shall report on the plan, prior to February 15, 1998, to the Joint Legislative Education Oversight Committee.

(i) The State Board of Education shall review and consider modifications to its school facility guidelines in light of research on the relationship between (i) school design components, especially school size, and (ii) school climate and order.

The State Board shall also develop recommendations to local boards of education on modifications to the design or organization of existing schools that would improve school climate and order.

The State Board of Education shall report to the Joint Legislative Education Oversight Committee prior to February 15, 1998, on actions taken to implement the provisions of this section.

(j) Prior to November 15, 1997, the State Board of Education shall review and modify, if necessary, its policies and procedures on data kept and reports made on acts of violence in school and on students suspended or expelled from school, to ensure that data and reports are accurate and consistent on a statewide basis. The State Board shall report to the Joint Legislative Education Oversight Committee prior to March 15, 1998, on the impact of its efforts to attain accurate and consistent reports.

(k) Effective when this act becomes law, G.S. 115C-307(a) reads as rewritten:

"(a) To Maintain Order and Discipline. -- It shall be the duty of all teachers, including student teachers, substitute teachers, voluntary teachers, and teacher assistants when given authority over some part of the school program by the principal or supervising teacher, to maintain good order and discipline in their respective schools. A teacher, student teacher, substitute teacher, voluntary teacher, or teacher assistant shall report to the principal acts of violence in school and students suspended or expelled from school as required to be reported in accordance with State Board policies."

(l)

- (1) There is created the At-Risk Students Task Force under the State Board of Education. The Task Force shall consist of the Chair of the State Board of Education, the Superintendent of Public Instruction, the President of the Community College System, the Secretary of Human Resources, the State Health Director, and the Director of the Administrative Office of the Courts. Each officer may designate one representative from that officer's department or office to represent that officer on the Task Force. These officers also may appoint additional members who represent other State and local public agencies to the Task Force. The Chair of the State Board of Education, or the Chair's designee, shall serve as the Chair of the Task Force. The Department of Public Instruction and the Department of Human Resources shall provide staff and clerical support to the Task Force. The State Board of Education shall fund the Task Force within funds available to it.
- (2) The Task Force shall develop a plan to develop interagency agreements between local school administrative units and other local public agencies, including, among others, health departments, departments of social services, mental health

agencies, and courts, in order to provide cooperative services to students who are at risk of school failure, at risk of participation in juvenile crime, or both.

- (3) The Task Force shall report its plan, along with any suggested statutory revisions, to the Joint Legislative Education Oversight Committee by January 15, 1998, at which time the Task Force shall terminate.

(m) G.S. 143B-152.5 reads as rewritten:

"§ 143B-152.5. *Grants review and selection.*

(a) The Department shall develop and disseminate a request for applications and establish procedures to be followed in developing and submitting applications to establish local S.O.S. programs and administering grants to establish local S.O.S. programs. This information shall include examples of the design and types of S.O.S. programs that evaluations have shown are likely to be successful in improving the academic performance of the participants or in reducing disruptive or illegal behavior.

(b) The Secretary of Human Resources shall appoint a State task force to assist the Secretary in reviewing grant applications. The State task force shall include representatives of the Department of Human Resources, the Department of Public Instruction, local school administrative units, educators, parents, the juvenile justice system, social services, and governmental agencies providing services to children, and other members the Secretary considers appropriate. In appointing the State task force, the Secretary shall consult with the Superintendent of Public Instruction in an effort to coordinate the membership of this State task force, the State task force appointed by the Secretary pursuant to G.S. 143B-152.14, and the State task force appointed by the Superintendent pursuant to G.S. 115C-238.42.

In reviewing grant applications, the Secretary and the State task force may consider (i) the severity of the local problems as determined by the needs assessment data, (ii) the likelihood that the locally designed plan will result in high quality after-school services for school-aged children, (iii) evidence of local collaboration and coordination of services, (iv) any innovative or experimental aspects of the plan that will make it a useful model for replication in other neighborhoods and communities, and (v) evidence that similarly designed programs have been efficient and effective in improving the academic performance of the participants or in reducing disruptive or illegal behavior, and (vi) any other factors which affect the well-being of school-aged children.

(c) In determining the amount of funds an applicant receives, the Secretary and the State task force may consider (i) the number of children to be served, (ii) the number and percentage of children to be served who participate in the subsidized lunch program, (iii) the number and percentage of school-aged children with two working parents or one single parent to be served, (iv) the availability of other resources or funds, and (v) the amount needed to implement the proposal.

(d) The Secretary shall award the grants."

(n) G.S. 143B-152.7(a) reads as rewritten:

"(a) The Department of Human Resources shall develop and implement an evaluation system that will assess the efficiency and effectiveness of the S.O.S. Program. The Department shall design this system to:

- (1) Provide information to the Department and to the General Assembly on how to improve and refine the programs;
 - (1a) Develop information for dissemination to potential grant applicants on the design of programs that experience has shown are likely to be successful;
 - (2) Enable the Department and the General Assembly to assess the overall quality, efficiency, and impact of the existing programs;
 - (3) Enable the Department and the General Assembly to determine whether to modify the S.O.S. Program; and
 - (4) Provide a detailed fiscal analysis of how State funds for these programs were used."
- (o) G.S. 115C-12(24), as amended by Section 15(e) of S.L. 1997-18 and Section 1 of S.L. 1997-239, reads as rewritten:

"(24) Duty to Develop Guidelines for Alternative Learning Programs, Provide Technical Assistance on Implementation of Programs, and Evaluate Programs. -- The State Board of Education shall adopt guidelines for assigning students to alternative learning programs. These guidelines shall include (i) a description of the programs and services that are recommended to be provided in alternative learning programs and (ii) a process for ensuring that an assignment is appropriate for the student and that the student's parents are involved in the decision.

The State Board of Education shall also adopt guidelines to require that local school administrative units shall use (i) the teachers allocated for students assigned to alternative learning programs pursuant to the regular teacher allotment and (ii) the teachers allocated for students assigned to alternative learning programs only to serve the needs of these students.

The State Board of Education shall provide technical support to local school administrative units to assist them in developing and implementing plans for alternative learning programs.

The State Board of Education shall recommend to local boards of education ways to measure the academic achievement of students while they are in the alternative learning programs or in remedial learning programs.

The State Board shall evaluate the effectiveness of alternative learning programs and, in its discretion, of any other programs funded from the Alternative Schools/At-Risk Student allotment. Local school administrative units shall report to the State Board of Education on how funds in the Alternative Schools/At-Risk Student allotment are spent and shall otherwise cooperate with the State Board of Education in evaluating the alternative learning programs. The State Board of Education shall report annually to the Joint Legislative Education Oversight Committee, beginning in December 1996, on the results of this evaluation."

(p) The State Board of Education and the Secretary of the Department of Human Resources shall appoint an advisory committee to consider the advisability of and to develop a proposal for creating regional residential schools for students with emotional and behavioral problems so severe that the public schools cannot serve them. The advisory committee shall clearly define the population and the age limits of the population for whom such a residential school would be appropriate, estimate the number of students in that population, devise a plan for building and operating such schools, and estimate the costs and benefits of such schools. The advisory committee shall consider whether any existing State facilities would be available and appropriate to house such a school. The State Board of Education shall convene and coordinate the meetings of the advisory committee. The advisory committee shall report the results of its study, including its recommendation on the advisability of creating these schools, to the State Board of Education and the Secretary of the Department of Human Resources prior to January 15, 1998. The State Board of Education shall report the results of the study to the Joint Legislative Education Oversight Committee prior to February 15, 1998.

(q)

(1) G.S. 115C-391 reads as rewritten:

"§ 115C-391. *Corporal punishment, suspension, or expulsion of pupils.*

(a) Local boards of education shall adopt policies not inconsistent with the provisions of the Constitutions of the United States and North Carolina, governing the conduct of students and establishing procedures to be followed by school officials in suspending or expelling any student, or in disciplining any student if the offensive behavior could result in suspension, expulsion, or the administration of corporal punishment. The policies that shall be adopted for the administration of corporal punishment shall include at a minimum the following conditions:

- (1) Corporal punishment shall not be administered in a classroom with other children present;
- (2) The student body shall be informed beforehand what general types of misconduct could result in corporal punishment;
- (3) Only a teacher, substitute teacher, principal, or assistant principal may administer corporal punishment and may do so only in the presence of a principal, assistant principal, teacher, substitute teacher, teacher assistant, or student teacher, who shall be informed beforehand and in the student's presence of the reason for the punishment; and
- (4) An appropriate school official shall provide the child's parent or guardian with notification that corporal punishment has been administered, and upon request, the official who administered the corporal punishment shall provide the child's parent or guardian a written explanation of the reasons and the name of the second school official who was present.

The Each local board shall publish all the policies mandated by this subsection and make them available to each student and his parent or guardian at the beginning of each school year.

Notwithstanding any policy adopted pursuant to this section, school personnel may use reasonable force, including corporal punishment, to control behavior or to remove a person from the scene in those situations when necessary:

- (1) To quell a disturbance threatening injury to others;
- (2) To obtain possession of weapons or other dangerous objects on the person, or within the control, of a student;
- (3) For self-defense; or
- (4) For the protection of persons or ~~property~~, property; or
- (5) To maintain order on school property, in the classroom, or at a school-related activity on or off school property.

(b) The principal of a school, or his delegate, shall have authority to suspend for a period of 10 days or less any student who willfully violates policies of conduct established by the local board of education: Provided, that a student suspended pursuant to this subsection shall be provided an opportunity to take any quarterly, semester or grading period examinations missed during the suspension period.

(c) The principal of a school, with the prior approval of the superintendent, shall have the authority to suspend for periods of times in excess of 10 school days but not exceeding the time remaining in the school year, any pupil who willfully violates the policies of conduct established by the local board of education. The pupil or his parents may appeal the decision of the principal to the local board of education.

(d) Notwithstanding G.S. 115C-378, a local board of education may, upon recommendation of the principal and superintendent, expel any student 14 years of age or older whose behavior indicates that the student's continued presence in school constitutes a clear threat to the safety of other students or employees. The local board of education's decision to expel a student under this section shall be based on clear and convincing evidence. Prior to ordering the expulsion of a student pursuant to this subsection, the local board of education shall consider whether there is an alternative program offered by the local school administrative unit that may provide education services for the student who is subject to expulsion. At any time after the first July 1 that is at least six months after the board's decision to expel a student under this subsection, a student may request the local board of education to reconsider that decision. If the student demonstrates to the satisfaction of the local board of education that the student's presence in school no longer constitutes a threat to the safety of other students or employees, the board shall readmit the student to a school in that local school administrative unit on a date the board considers appropriate. ~~Notwithstanding the provisions of G.S. 115C-112, a local board of education has no duty to continue to provide a child with special needs, expelled pursuant to this subsection, with any special education or related services during the period of expulsion.~~

(d1) A local board of education shall suspend for 365 days any student who brings a weapon, as defined in G.S. 14-269.2(b) and (g), G.S. 14-269.2(g), onto school property. The local board of education upon recommendation by the superintendent may modify this suspension requirement on a case-by-case basis ~~which~~ that includes, but is not limited

to, the procedures set out in G.S. 115C-112 established for the discipline of students with disabilities and may also provide, or contract for the provision of, educational services to any student suspended pursuant to this subsection in an alternative school setting or in another setting that provides educational and other services.

(d2) (1) A local board of education shall remove to an alternative educational setting, as provided in subdivision (4) of this subsection, any student who is at least 13 and who physically assaults and seriously injures a teacher or other school personnel. If no appropriate alternative educational setting is available, then the board shall suspend for no less than 300 days but no more than 365 days any student who is at least 13 and who physically assaults and seriously injures a teacher or other school personnel.

(2) A local board of education may remove to an alternative educational setting any student who is at least 13 and who does one of the following:

- a. Physically assaults a teacher or other adult who is not a student.
- b. Physically assaults another student if the assault is witnessed by school personnel.
- c. Physically assaults and seriously injures another student.

If no appropriate alternative educational setting is available, then the board may suspend this student for up to 365 days.

(3) For purposes of this subsection, the conduct leading to suspension or removal to an alternative educational setting must occur on school property or at a school-sponsored or school-related activity on or off school property. This subsection shall not apply when the student who is subject to suspension or removal was acting in self-defense. If a teacher is assaulted or injured and as a result a student is suspended or removed to an alternative educational setting under this subsection, then the student shall not be returned to that teacher's classroom unless the teacher consents. If a student is suspended under this subsection, the board may assign the student to an alternative educational setting upon the expiration of the period of suspension.

(4) If the local board removes the student to an alternative educational setting, as provided in subdivision (1) of this subsection, and the conduct leading to the removal occurred on or before the ninetieth school day, the board shall remove the student to that setting for the remainder of the current school year and the first 90 school days in the following school year. If the board chooses to remove the student to an alternative educational setting, as provided in subdivision (1) of this subsection, and the conduct leading to the removal occurred after the ninetieth school day, the board shall remove the student to that setting for the remainder of the current school year and for the entire subsequent school year.

Notwithstanding these requirements, the local board may authorize a shorter or longer length of time a student must remain in an alternative educational setting if the board finds this would be more appropriate based upon the recommendations of the principals of the alternative school and the school to which the student will return.

(e) A decision of a local board under subsection (c), (d), ~~or (d1)~~ (d1), or (d2) of this section is final and, except as provided in this subsection, is subject to judicial review in accordance with Article 4 of Chapter 150B of the General Statutes. A person seeking judicial review shall file a petition in the superior court of the county where the local board made its decision.

(f) ~~Local boards of education shall, no later than December 1, 1993, reevaluate and update their policies related to school safety so they reflect changes authorized by the 1993 General Assembly. In particular, boards shall ensure they have clear policies governing the conduct of students, which students. At a minimum, these policies shall state the consequences of violent or assaultive behavior, possessions of weapons, and criminal acts committed on school property or at school-sponsored functions. The State Board shall develop guidelines to assist local boards in this process.~~

(g) Notwithstanding the provisions of this section, the policies and procedures for the discipline of students with disabilities shall be consistent with federal laws and regulations.

(h) Notwithstanding any other law, no officer or employee of the State Board of Education or of a local board of education shall be civilly liable for using reasonable force, including corporal punishment, in conformity with State law, State or local rules, or State or local policies regarding the control, discipline, suspension, and expulsion of students. Furthermore, the burden of proof is on the claimant to show that the amount of force used was not reasonable."

(2) This subsection is effective November 1, 1997, and applies to conduct occurring on or after that date.

(r) Effective when this act becomes law:

(1) Chapter 115C of the General Statutes is amended by adding a new Article to read:

"ARTICLE 8C.

"Local Plans for Maintaining Safe and Orderly Schools.

"§ 115C-105.45. Legislative findings.

The General Assembly finds that all schools should be safe, secure, and orderly. If students are to aim for academic excellence, it is imperative that there is a climate of respect in every school and that every school is free of disruption, drugs, violence, and weapons. All schools must have plans, policies, and procedures for dealing with disorderly and disruptive behavior. All schools and school units must have effective measures for assisting students who are at risk of academic failure or of engaging in disruptive and disorderly behavior.

"§ 115C-105.46. State Board of Education responsibilities.

In order to implement this Article, the State Board of Education:

(1) Shall adopt guidelines for developing local plans under G.S. 115C-105.47;

- (2) Shall provide, in cooperation with the Board of Governors of The University of North Carolina, ongoing technical assistance to the local school administrative units in the development, implementation, and evaluation of their local plans under G.S. 115C-105.47;
- (3) May require a local board of education to withhold the salary of any administrator or other employee of a local school administrative unit who delays or refuses to prepare and implement local safe school plans in accordance with G.S. 115C-105.47; and
- (4) May revoke the certificate of the superintendent, pursuant to G.S. 115C-274(c), for failure to fulfill the superintendent's duties under a local safe school plan.

"§ 115C-105.47. Local safe school plans.

(a) Each local board of education shall develop a local school administrative unit safe school plan designed to provide that every school in the local school administrative unit is safe, secure, and orderly, that there is a climate of respect in every school, and that appropriate personal conduct is a priority for all students and all public school personnel. The board shall include parents, the school community, representatives of the community, and others in the development or review of this plan. The plan may be developed by or in conjunction with other committees.

(b) Each plan shall include each of the following components:

- (1) Clear statements of the standard of behavior expected of students at different grade levels and of school personnel and clear statements of the consequences that will result from one or more violations of those standards. There shall be a statement of consequences for students under the age of 13 who physically assault and seriously injure a teacher or other individual on school property or at a school-sponsored or school-related activity. The consequences may include placement in an alternative setting.
- (2) A clear statement of the responsibility of the superintendent for coordinating the adoption and the implementation of the plan, evaluating principals' performance regarding school safety, monitoring and evaluating the implementation of safety plans at the school level, and coordinating with local law enforcement and court officials appropriate aspects of implementation of the plan. The statement of responsibility shall provide appropriate disciplinary consequences that may occur if the superintendent fails to carry out these responsibilities. These consequences may include a reprimand in the superintendent's personnel file or withholding of the superintendent's salary, or both.
- (3) A clear statement of the responsibility of the school principal for restoring, if necessary, and maintaining a safe, secure, and orderly school environment and of the consequences that may occur if the principal fails to meet that responsibility. The principal's duties shall include exhibiting appropriate leadership for school personnel and students, providing for alternative

placements for students who are seriously disruptive, reporting all criminal acts under G.S. 115C-288(g), and providing appropriate disciplinary consequences for disruptive students. The consequences to the principal that may occur shall include a reprimand in the principal's personnel file and disciplinary proceedings under G.S. 115C-325.

- (4) Clear statements of the roles of other administrators, teachers, and other school personnel in restoring, if necessary, and maintaining a safe, secure, and orderly school environment.
- (5) Procedures for identifying and serving the needs of students who are at risk of academic failure or of engaging in disruptive or disorderly behavior.
- (6) Mechanisms for assessing the needs of disruptive and disorderly students, providing them with services to assist them in achieving academically and in modifying their behavior, and removing them from the classroom when necessary.
- (7) Measurable objectives for improving school safety and order.
- (8) Measures of the effectiveness of efforts to assist students at risk of academic failure or of engaging in disorderly or disruptive behavior.
- (9) Professional development clearly matched to the goals and objectives of the plan.
- (10) A plan to work effectively with local law enforcement officials and court officials to ensure that schools are safe and laws are enforced.
- (11) A plan to provide access to information to the school community, parents, and representatives of the local community on the ongoing implementation of the local plan, monitoring of the local plan, and the integration of educational and other services for students into the total school program.
- (12) The name and role description of the person responsible for implementation of the plan.
- (13) Direction to school improvement teams within the local school administrative unit to consider the special conditions at their schools and to incorporate into their school improvement plans the appropriate components of the local plan for maintaining safe and orderly schools.
- (14) A clear and detailed statement of the planned use of federal, State, and local funds allocated for at-risk students, alternative schools, or both.
- (15) Any other information the local board considers necessary or appropriate to implement this Article.

A local board may develop its plan under this section by conducting a comprehensive review of its existing policies, plans, statements, and procedures to determine whether they: (i) are effective; (ii) have been updated to address recent changes in the law; (iii) meet the current needs of each school in the local school administrative unit; and (iv) address the components required to be included in the local plan. The board then may consolidate and supplement any previously developed policies, plans,

statements, and procedures that the board determines are effective and updated, meet the current needs of each school, and meet the requirements of this subsection.

Once developed, the board shall submit the local plan to the State Board of Education and shall ensure the plan is available and accessible to parents and the school community. The board shall provide annually to the State Board information that demonstrates how the At-Risk Student Services/Alternative Schools Funding Allotment has been used to (i) prevent academic failure or (ii) promote school safety.

(c) The local board may amend the plan as often as it considers necessary or appropriate."

(2) G.S. 115C-105.27, as amended by Section 1 of S.L. 1997-159, reads as rewritten:

"§ 115C-105.27. Development and approval of school improvement plans.

In order to improve student performance, each school shall develop a school improvement plan that takes into consideration the annual performance goal for that school that is set by the State Board under G.S. 115C-105.35. The principal of each school, representatives of the assistant principals, instructional personnel, instructional support personnel, and teacher assistants assigned to the school building, and parents of children enrolled in the school shall constitute a school improvement team to develop a school improvement plan to improve student performance. Unless the local board of education has adopted an election policy, parents shall be elected by parents of children enrolled in the school in an election conducted by the parent and teacher organization of the school or, if none exists, by the largest organization of parents formed for this purpose. Parents serving on school improvement teams shall reflect the racial and socioeconomic composition of the students enrolled in that school and shall not be members of the building-level staff. Parental involvement is a critical component of school success and positive student achievement; therefore, it is the intent of the General Assembly that parents, along with teachers, have a substantial role in developing school improvement plans. To this end, school improvement team meetings shall be held at a convenient time to assure substantial parent participation. The strategies for improving student performance shall include a plan for the use of staff development funds that may be made available to the school by the local board of education to implement the school improvement plan. plan and shall include a plan to address school safety and discipline concerns in accordance with the safe school plan developed under Article 8C of this Chapter. The strategies may include a decision to use State funds in accordance with G.S. 115C-105.25. The strategies may also include requests for waivers of State laws, rules, or policies for that school. A request for a waiver shall meet the requirements of G.S. 115C-105.26.

Support among affected staff members is essential to successful implementation of a school improvement plan to address improved student performance at that school. The principal of the school shall present the proposed school improvement plan to all of the principals, assistant principals, instructional personnel, instructional support personnel, and teacher assistants assigned to the school building for their review and vote.

The vote shall be by secret ballot. The principal shall submit the school improvement plan to the local board of education only if the proposed school improvement plan has the approval of a majority of the staff who voted on the plan.

The local board of education shall accept or reject the school improvement plan. The local board shall not make any substantive changes in any school improvement plan that it accepts. If the local board rejects a school improvement plan, the local board shall state with specificity its reasons for rejecting the plan; the school improvement team may then prepare another plan, present it to the principals, assistant principals, instructional personnel, instructional support personnel, and teacher assistants assigned to the school building for a vote, and submit it to the local board to accept or reject. If no school improvement plan is accepted for a school within 60 days after its initial submission to the local board, the school or the local board may ask to use the process to resolve disagreements recommended in the guidelines developed by the State Board under G.S. 115C-105.20(b)(5). If this request is made, both the school and local board shall participate in the process to resolve disagreements. If there is no request to use that process, then the local board may develop a school improvement plan for the school. The General Assembly urges the local board to utilize the school's proposed school improvement plan to the maximum extent possible when developing such a plan.

A school improvement plan shall remain in effect for no more than three years; however, the school improvement team may amend the plan as often as is necessary or appropriate. If, at any time, any part of a school improvement plan becomes unlawful or the local board finds that a school improvement plan is impeding student performance at a school, the local board may vacate the relevant portion of the plan and may direct the school to revise that portion. The procedures set out in this subsection shall apply to amendments and revisions to school improvement plans."

(3) The State Board of Education shall develop a plan to reward school principals for improving school safety and school climate. The Board shall report this plan, along with any recommended statutory changes, to the Joint Legislative Education Oversight Committee by April 15, 1998.

(4) Local boards of education shall begin implementation of local safe school plans developed under this section by the beginning of the 1998-99 school year.

(s) Effective when this act becomes law, G.S. 115C-402 reads as rewritten:

"§ 115C-402. *Student records; maintenance; contents; confidentiality.*

The official record of each student enrolled in North Carolina public schools shall be permanently maintained in the files of the appropriate school after the student graduates, or should have graduated, from high school unless the local board determines that such files may be filed in the central office or other location designated by the local board for that purpose.

The official record shall contain, as a minimum, adequate identification data including date of birth, attendance data, grading and promotion data,

and such other factual information as may be deemed appropriate by the local board of education having jurisdiction over the school wherein the record is maintained. Each student's official record also shall include notice of any suspension for a period of more than 10 days or of any expulsion under G.S. 115C-391 and the conduct for which the student was suspended or expelled. The notice of suspension or expulsion shall be expunged from the record if the student (i) graduates from high school or (ii) is not expelled or suspended again during the two-year period commencing on the date of the student's return to school after the expulsion or suspension.

The official record of each student is not a public record as the term 'public record' is defined by G.S. 132-1. The official record shall not be subject to inspection and examination as authorized by G.S. 132-6."

(t) Effective November 1, 1997, G.S. 115C-288(g) reads as rewritten:

"(g) To Report Certain Acts to Law Enforcement. -- When the principal has ~~a reasonable belief~~ personal knowledge or actual notice from school personnel that an act has occurred on school property involving assault resulting in serious personal injury, sexual assault, sexual offense, rape, kidnapping, indecent liberties with a minor, assault involving the use of a weapon, possession of a firearm in violation of the law, possession of a weapon in violation of the law, or possession of a controlled substance in violation of the law, the principal shall immediately report the act to the appropriate local law enforcement agency. Failure to report under this subsection is a Class 3 misdemeanor. For purposes of this subsection, 'school property' shall include any public school building, bus, public school campus, grounds, recreational area, or athletic field, in the charge of the principal. It is the intent of the General Assembly that the principal notify the superintendent and the superintendent notify the local board of any report made to law enforcement under this subsection."

(u) G.S. 115C-12 is amended by adding the following new subdivision to read:

"(27) Reporting Dropout Rates and Expelled Students. -- The State Board shall not include students that have been expelled from school when calculating the dropout rate. The Board shall maintain a separate record of the number of students who are expelled from school."

(v) The Board of Governors of The University of North Carolina, in consultation with the State Board of Education, the Administrative Office of the Courts, the Department of Crime Control and Public Safety, and other appropriate State agencies, shall develop a program for the ongoing training of school officials, local law enforcement officials, and local court officials. The program shall be designed to promote local collaboration on school safety and discipline issues. The Board of Governors shall report to the Joint Legislative Education Oversight Committee on the development of this program by January 15, 1998.

(w) Of the funds appropriated to the State Board of Education, the sum of ten million dollars (\$10,000,000) for the 1997-98 fiscal year and the sum of ten million dollars (\$10,000,000) for the 1998-99 fiscal year shall be allocated to Alternative Schools/At-Risk Students.

Requested by: Senators Lee, Winner, Hartsell, Representatives Arnold, Grady, Preston, Moore

SCHOOL-BASED ADMINISTRATOR SALARIES

Section 8.30. (a) Funds appropriated to the Reserve for Compensation Increase shall be used for the implementation of the salary schedule for school-based administrators as provided in this section. These funds shall be used for State-paid employees only.

(b) The salary schedule for school-based administrators shall apply only to principals and assistant principals. The salary schedule for the 1997-98 fiscal year, commencing July 1, 1997, is as follows:

Assistant Principal				Principal I		
Step	Base	Base + 1%	Base + 2%	Base	Base + 1%	Base + 2%
4	\$2,713	\$2,740	\$2,767	--	--	--
5	2,763	2,791	2,818	--	--	--
6	2,815	2,843	2,871	--	--	--
7	2,867	2,896	2,924	--	--	--
8	2,920	2,949	2,978	\$2,920	\$2,949	\$2,978
9	2,972	3,002	3,031	2,972	3,002	3,031
10	3,026	3,056	3,087	3,026	3,056	3,087
11	3,083	3,114	3,145	3,083	3,114	3,145
12	3,139	3,170	3,202	3,139	3,170	3,202
13	3,197	3,229	3,261	3,197	3,229	3,261
14	3,256	3,289	3,321	3,256	3,289	3,321
15	3,316	3,349	3,382	3,316	3,349	3,382
16	3,377	3,411	3,445	3,377	3,411	3,445
17	3,439	3,473	3,508	3,439	3,473	3,508
18	3,504	3,539	3,574	3,504	3,539	3,574
19	3,569	3,605	3,640	3,569	3,605	3,640
20	3,637	3,673	3,710	3,637	3,673	3,710
21	3,705	3,742	3,779	3,705	3,742	3,779
22	3,773	3,811	3,848	3,773	3,811	3,848
23	3,843	3,881	3,920	3,843	3,881	3,920
24	3,915	3,954	3,993	3,915	3,954	3,993
25	3,988	4,028	4,068	3,988	4,028	4,068
26	4,064	4,105	4,145	4,064	4,105	4,145
27	4,140	4,181	4,223	4,140	4,181	4,223
28	4,219	4,261	4,303	4,219	4,261	4,303
29	4,303	4,346	4,389	4,303	4,346	4,389
30	4,389	4,433	4,477	4,389	4,433	4,477
31	4,477	4,522	4,567	4,477	4,522	4,567
32	--	--	--	4,567	4,613	4,658

Principal II				Principal III		
Step	Base	Base + 1%	Base + 2%	Base	Base + 1%	Base + 2%

4	--	--	--	--	--	--
5	--	--	--	--	--	--
6	--	--	--	--	--	--
7	--	--	--	--	--	--
8	--	--	--	--	--	--
9	--	--	--	--	--	--
10	\$3,083	\$3,114	\$3,145	--	--	--
11	3,139	3,170	3,202	--	--	--
12	3,197	3,229	3,261	\$3,256	\$3,289	\$3,321
13	3,256	3,289	3,321	3,316	3,349	3,382
14	3,316	3,349	3,382	3,377	3,411	3,445
15	3,377	3,411	3,445	3,439	3,473	3,508
16	3,439	3,473	3,508	3,504	3,539	3,574
17	3,504	3,539	3,574	3,569	3,605	3,640
18	3,569	3,605	3,640	3,637	3,673	3,710
19	3,637	3,673	3,710	3,705	3,742	3,779
20	3,705	3,742	3,779	3,773	3,811	3,848
21	3,773	3,811	3,848	3,843	3,881	3,920
22	3,843	3,881	3,920	3,915	3,954	3,993
23	3,915	3,954	3,993	3,988	4,028	4,068
24	3,988	4,028	4,068	4,064	4,105	4,145
25	4,064	4,105	4,145	4,140	4,181	4,223
26	4,140	4,181	4,223	4,219	4,261	4,303
27	4,219	4,261	4,303	4,303	4,346	4,389
28	4,303	4,346	4,389	4,389	4,433	4,477
29	4,389	4,433	4,477	4,477	4,522	4,567
30	4,477	4,522	4,567	4,567	4,613	4,658
31	4,567	4,613	4,658	4,658	4,705	4,751
32	4,658	4,705	4,751	4,751	4,799	4,846
33	4,751	4,799	4,846	4,846	4,894	4,943
34	4,846	4,894	4,943	4,943	4,992	5,042
35	--	--	--	5,042	5,092	5,143
36	--	--	--	5,143	5,194	5,246

Step	Principal IV			Principal V		
	Base	Base + 1%	Base + 2%	Base	Base + 1%	Base + 2%
4	--	--	--	--	--	--
5	--	--	--	--	--	--
6	--	--	--	--	--	--
7	--	--	--	--	--	--
8	--	--	--	--	--	--
9	--	--	--	--	--	--
10	--	--	--	--	--	--
11	--	--	--	--	--	--
12	--	--	--	--	--	--
13	\$3,377	\$3,411	\$3,445	--	--	--
14	3,439	3,473	3,508	\$3,504	\$3,539	\$3,574

15	3,504	3,539	3,574	3,569	3,605	3,640
16	3,569	3,605	3,640	3,637	3,673	3,710
17	3,637	3,673	3,710	3,705	3,742	3,779
18	3,705	3,742	3,779	3,773	3,811	3,848
19	3,773	3,811	3,848	3,843	3,881	3,920
20	3,843	3,881	3,920	3,915	3,954	3,993
21	3,915	3,954	3,993	3,988	4,028	4,068
22	3,988	4,028	4,068	4,064	4,105	4,145
23	4,064	4,105	4,145	4,140	4,181	4,223
24	4,140	4,181	4,223	4,219	4,216	4,303
25	4,219	4,261	4,303	4,303	4,346	4,389
26	4,303	4,346	4,389	4,389	4,433	4,477
27	4,389	4,433	4,477	4,477	4,522	4,567
28	4,477	4,522	4,567	4,567	4,613	4,658
29	4,567	4,613	4,658	4,658	4,705	4,751
30	4,658	4,705	4,751	4,751	4,799	4,846
31	4,751	4,799	4,846	4,846	4,894	4,943
32	4,846	4,894	4,943	4,943	4,992	5,042
33	4,943	4,992	5,042	5,042	5,092	5,143
34	5,042	5,092	5,143	5,143	5,194	5,246
35	5,143	5,194	5,246	5,246	5,298	5,351
36	5,246	5,298	5,351	5,351	5,405	5,458
37	5,351	5,405	5,458	5,458	5,513	5,567
38	--	--	--	5,567	5,623	5,678
39	--	--	--	--	--	--
40	--	--	--	--	--	--
41	--	--	--	--	--	--

Step	Principal VI			Principal VII		
	Base	Base + 1%	Base + 2%	Base	Base + 1%	Base + 2%
4	--	--	--	--	--	--
5	--	--	--	--	--	--
6	--	--	--	--	--	--
7	--	--	--	--	--	--
8	--	--	--	--	--	--
9	--	--	--	--	--	--
10	--	--	--	--	--	--
11	--	--	--	--	--	--
12	--	--	--	--	--	--
13	--	--	--	--	--	--
14	--	--	--	--	--	--
15	--	--	--	--	--	--
16	\$3,705	\$3,742	\$3,779	--	--	--
17	3,773	3,811	3,848	\$3,843	\$3,881	\$3,920
18	3,843	3,881	3,920	3,915	3,954	3,993
19	3,915	3,954	3,993	3,988	4,028	4,068
20	3,988	4,028	4,068	4,064	4,105	4,145

21	4,064	4,105	4,145	4,140	4,181	4,223
22	4,140	4,181	4,223	4,219	4,261	4,303
23	4,219	4,261	4,303	4,303	4,346	4,389
24	4,303	4,346	4,389	4,389	4,433	4,477
25	4,389	4,433	4,477	4,477	4,522	4,567
26	4,477	4,522	4,567	4,567	4,613	4,658
27	4,567	4,613	4,658	4,658	4,705	4,751
28	4,658	4,705	4,751	4,751	4,799	4,846
29	4,751	4,799	4,846	4,846	4,894	4,943
30	4,846	4,894	4,943	4,943	4,992	5,042
31	4,943	4,992	5,042	5,042	5,092	5,143
32	5,042	5,092	5,143	5,143	5,194	5,246
33	5,143	5,194	5,246	5,246	5,298	5,351
34	5,246	5,298	5,351	5,351	5,405	5,458
35	5,351	5,405	5,458	5,458	5,513	5,567
36	5,458	5,513	5,567	5,567	5,623	5,678
37	5,567	5,623	5,678	5,678	5,735	5,792
38	5,678	5,735	5,792	5,792	5,850	5,908
39	5,792	5,850	5,908	5,908	5,967	6,026
40	5,908	5,967	6,026	6,026	6,086	6,147
41	--	--	--	6,147	6,208	6,270

(c) The appropriate classification for placement of principals and assistant principals on the salary schedule, except for principals in alternative schools, shall be determined in accordance with the following schedule:

Classification	Number of Teachers Supervised
Assistant Principal	
Principal I	Less than 11 Teachers
Principal II	11-21 Teachers
Principal III	22-32 Teachers
Principal IV	33-43 Teachers
Principal V	44-54 Teachers
Principal VI	55-65 Teachers
Principal VII	More than 65 Teachers

The number of teachers supervised includes teachers and assistant principals paid from State funds only; it does not include teachers or assistant principals paid from non-State funds or the principal or teacher assistants.

The beginning classification for principals in alternative schools shall be the Principal III level. Principals in alternative schools who supervise 33 or more teachers shall be classified according to the number of teachers supervised.

(d) A principal shall be placed on the step on the salary schedule that reflects total number of years of experience as a certificated employee of the public schools and an additional step for every three years of experience as a principal.

(e) For the 1997-98 fiscal year, a principal or assistant principal shall be placed on the appropriate step plus one percent (1%) if:

- (1) The employee's school meets or exceeds the projected levels of improvement in student performance for the 1997-98 fiscal year, in accordance with the ABC's of Public Education Program; or
- (2) The local board of education finds that the employee's school has met objectively measurable goals set by the local board of education for maintaining a safe and orderly school.

The principal or assistant principal shall be placed on the appropriate step plus two percent (2%) if the conditions set out in both subdivision (1) and (2) are satisfied. The principal or assistant principal shall receive a lump sum payment for the 1997-98 fiscal year service if the conditions set out in subdivision (1) or (2) or both are satisfied. The lump sum shall be paid as determined by guidelines adopted by the State Board. Placement on the salary schedule in the following year shall be based upon these increases.

(f) For the 1998-99 fiscal year, a principal or assistant principal shall be placed on the appropriate step plus one percent (1%) if:

- (1) The employee's school meets or exceeds the projected levels of improvement in student performance for the 1998-99 fiscal year, in accordance with the ABC's of Public Education Program; or
- (2) The local board of education finds that the employee's school has met the goals of the local plan for maintaining a safe and orderly school.

The principal or assistant principal shall be placed on the appropriate step plus two percent (2%) if the conditions set out in both subdivision (1) and (2) are satisfied. The principal or assistant principal shall receive a lump sum payment for the 1997-98 fiscal year service if the conditions set out in subdivision (1) or (2) or both are satisfied. The lump sum shall be paid as determined by guidelines adopted by the State Board. Placement on the salary schedule in the following year shall be based upon these increases.

(g) Principals and assistant principals with certification based on academic preparation at the six-year degree level shall be paid a salary supplement of one hundred twenty-six dollars (\$126.00) per month and at the doctoral degree level shall be paid a salary supplement of two hundred fifty-three dollars (\$253.00) per month.

(h) There shall be no State requirement that superintendents in each local school unit shall receive in State-paid salary at least one percent (1%) more than the highest paid principal receives in State salary in that school unit: Provided, however, the additional State-paid salary a superintendent who was employed by a local school administrative unit for the 1992-93 fiscal year received because of that requirement shall not be reduced because of this subsection for subsequent fiscal years that the superintendent is employed by that local school administrative unit so long as the superintendent is entitled to at least that amount of additional State-paid salary under the rules in effect for the 1992-93 fiscal year.

(i) Longevity pay for principals and assistant principals shall be as provided for State employees.

- (j)(1) If a principal is reassigned to a higher job classification because the principal is transferred to a school within a local school administrative unit with a larger number of State-allotted teachers, the principal shall be placed on the salary schedule as if

the principal had served the principal's entire career as a principal at the higher job classification.

- (2) If a principal is reassigned to a lower job classification because the principal is transferred to a school within a local school administrative unit with a smaller number of State-allotted teachers, the principal shall be placed on the salary schedule as if the principal had served the principal's entire career as a principal at the lower job classification.

This subdivision applies to all transfers on or after the ratification date of this act, except transfers in school systems that have been created, or will be created, by merging two or more school systems. Transfers in these merged systems are exempt from the provisions of this subdivision for one calendar year following the date of the merger.

- (k) The State Board may authorize local boards of education to pay persons for one year at the entry-level step of the assistant principal's salary schedule if they (i) are serving as assistant principals, (ii) have completed one year of a masters in school administration program, and (iii) are not certified as principals.

Requested by: Representatives Arnold, Grady, Preston, Moore, Senators Winner, Lee, Hartsell

SCHOOL CENTRAL OFFICE SALARIES

Section 8.31. (a) The following monthly salary ranges apply to assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers for the 1997-98 fiscal year, beginning July 1, 1997:

(1) School Administrator I:	\$2,818 - \$4,715
(2) School Administrator II:	\$2,991 - \$5,004
(3) School Administrator III:	\$3,174 - \$5,311
(4) School Administrator IV:	\$3,302 - \$5,526
(5) School Administrator V:	\$3,435 - \$5,750
(6) School Administrator VI:	\$3,645 - \$6,102
(7) School Administrator VII:	\$3,792 - \$6,349

The local board of education shall determine the appropriate category and placement for each assistant superintendent, associate superintendent, director/coordinator, supervisor, or finance officer within the salary ranges and within funds appropriated by the General Assembly for central office administrators and superintendents. The category in which an employee is placed shall be included in the contract of any employee hired on or after July 1, 1997.

(b) The following monthly salary ranges apply to public school superintendents for the 1997-98 fiscal year, beginning July 1, 1997:

(1) Superintendent I (Up to 2,500 ADM):	\$4,025 - \$6,738
(2) Superintendent II (2,501 - 5,000 ADM):	\$4,272 - \$7,149
(3) Superintendent III (5,001 - 10,000 ADM):	\$4,533 - \$7,587
(4) Superintendent IV (10,001 - 25,000 ADM):	\$4,811 - \$8,051
(5) Superintendent V (Over 25,000 ADM):	\$5,106 - \$8,544

The local board of education shall determine the appropriate category and placement for the superintendent based on the average daily membership of the local school administrative unit and within funds appropriated by the General Assembly for central office administrators and superintendents.

Notwithstanding the provisions of this subsection, a local board of education may pay an amount in excess of the applicable range to a superintendent who is entitled to receive the higher amount under Section 8.30 of this act.

(c) Longevity pay for superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers shall be as provided for State employees.

(d) Superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars (\$126.00) per month in addition to the compensation provided for pursuant to this section. Superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars (\$253.00) per month in addition to the compensation provided for under this section.

(e) The State Board shall not permit local school administrative units to transfer State funds from other funding categories for salaries for public school central office administrators.

(f) The Director of the Budget shall transfer from the Reserve for Salary Increases created in this act for fiscal year 1997-98, beginning July 1, 1997, funds necessary to provide an average annual salary increase of four percent (4%), including funds for the employer's retirement and social security contributions, commencing July 1, 1997, for all permanent full-time personnel paid from the Central Office Allotment. The State Board of Education shall allocate these funds to local school administrative units. The local boards of education shall establish guidelines for providing their salary increases to these personnel.

Requested by: Representatives Arnold, Grady, Preston, Moore, Senators Winner, Lee, Hartsell

NONCERTIFIED PUBLIC SCHOOL EMPLOYEES' SALARY INCREASE

Section 8.32. The Director of the Budget may transfer from the Reserve for Compensation Increase created in this act for fiscal year 1997-98, commencing July 1, 1997, funds necessary to provide a salary increase of four percent (4%), including funds for the employer's retirement and social security contributions, commencing July 1, 1997, for all noncertified public school employees whose salaries are supported from the State's General Fund. Local boards of education shall increase the rates of pay for all such employees who were employed during fiscal year 1996-97 and who continue their employment for fiscal year 1997-98 by at least four percent (4%), commencing July 1, 1997. These funds shall not be used for any

purpose other than for the salary increases and necessary employer contributions provided by this section.

The Director of the Budget may transfer from the Reserve for Compensation Increase created in this act for fiscal year 1997-98, beginning July 1, 1997, funds necessary to provide the salary increases for noncertified public school employees whose salaries are supported from the State's General Fund in accordance with the provisions of this section.

The State Board of Education may enact or create salary ranges for noncertified personnel to support increases of four percent (4%) for the 1997-98 fiscal year.

Requested by: Senators Plyler, Perdue, Odom, Winner, Lee, Hartsell, Representatives Holmes, Esposito, Creech, Arnold, Grady, Preston, Moore
TEACHER SALARY SCHEDULES

Section 8.33. (a) Effective for the 1997-98 school year, the Director of the Budget may transfer from the Reserve for Compensation Increase for the 1997-98 fiscal year funds necessary to implement the teacher salary schedule set out in subsection (b) of this section, including funds for the employer's retirement and social security contributions and funds for annual longevity payments at one percent (1%) of base salary for 10 to 14 years of State service, one and one-half percent (1.5%) of base salary for 15 to 19 years of State service, two percent (2%) of base salary for 20 to 24 years of State service, and four and one-half percent (4.5%) of base salary for 25 or more years of State service, commencing July 1, 1997, for all teachers whose salaries are supported from the State's General Fund. These funds shall be allocated to individuals according to rules adopted by the State Board of Education and the Superintendent of Public Instruction. The longevity payment shall be paid in a lump sum once a year.

(b)(1) For the 1997-98 school year, the following monthly salary schedules shall apply to certified personnel of the public schools who are classified as teachers. The schedule contains 30 steps with each step corresponding to one year of teaching experience.

**1997-98 Monthly Salary Schedule
 "A" Teachers**

Years of Experience	"A" Teachers	NBPTS Certification
0	2,215	N/A
1	2,257	N/A
2	2,300	N/A
3	2,427	2,718
4	2,528	2,831
5	2,575	2,884
6	2,623	2,937
7	2,672	2,992
8	2,721	3,047

9	2,770	3,102
10	2,820	3,158
11	2,872	3,216
12	2,925	3,276
13	2,979	3,336
14	3,034	3,398
15	3,090	3,460
16	3,147	3,524
17	3,205	3,589
18	3,265	3,656
19	3,326	3,725
20	3,389	3,795
21	3,452	3,866
22	3,516	3,937
23	3,581	4,010
24	3,648	4,085
25	3,717	4,163
26	3,787	4,241
27	3,858	4,320
28	3,931	4,402
29+	4,005	4,485

1997-98 Monthly Salary Schedule
"G" Teachers

Years of Experience	"G" Teachers	NBPTS Certification
0	2,353	N/A
1	2,398	N/A
2	2,444	N/A
3	2,579	2,888
4	2,686	3,008
5	2,736	3,064
6	2,787	3,121
7	2,839	3,179
8	2,891	3,237
9	2,943	3,296
10	2,996	3,355
11	3,052	3,418
12	3,108	3,480
13	3,165	3,544
14	3,224	3,610
15	3,283	3,676
16	3,344	3,745
17	3,405	3,813
18	3,469	3,885
19	3,534	3,958
20	3,601	4,033

21	3,668	4,108
22	3,736	4,184
23	3,805	4,261
24	3,876	4,341
25	3,949	4,422
26	4,024	4,506
27	4,099	4,590
28	4,177	4,678
29 +	4,255	4,765

- (2) Certified public school teachers with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars (\$126.00) per month in addition to the compensation provided for certified personnel of the public schools who are classified as "G" teachers. Certified public school teachers with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars (\$253.00) per month in addition to the compensation provided for certified personnel of the public schools who are classified as "G" teachers.

(c) Effective for the 1997-98 school year, the first step of the salary schedule for school psychologists shall be equivalent to Step 5, corresponding to five years of experience, on the salary schedule established in this section for certified personnel of the public schools who are classified as "G" teachers. Certified psychologists shall be placed on the salary schedule at an appropriate step based on their years of experience. Certified psychologists shall receive longevity payments based on years of State service in the same manner as teachers.

Certified psychologists with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars (\$126.00) per month in addition to the compensation provided for certified psychologists. Certified psychologists with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars (\$253.00) per month in addition to the compensation provided for certified psychologists.

(d) Effective for the 1997-98 school year, speech pathologists who are certified as speech pathologists at the masters degree level and audiologists who are certified as audiologists at the masters degree level and who are employed in the public schools as speech and language specialists and audiologists shall be paid on the school psychologist salary schedule.

Speech pathologists and audiologists with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars (\$126.00) per month in addition to the compensation provided for speech pathologists and audiologists. Speech pathologists and audiologists with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars (\$253.00) per month in addition to the compensation provided for speech pathologists and audiologists.

Requested by: Senators Winner, Lee, Hartsell, Representatives Arnold, Grady, Preston, Moore

EXTRA PAY FOR MENTOR TEACHERS

Section 8.34. Of the funds appropriated to State Aid to Local School Administrative Units, the sum of three million five hundred thousand dollars (\$3,500,000) for the 1997-98 fiscal year shall be used to provide every newly-certified teacher with a qualified and well-trained mentor. These funds shall be used to compensate each mentor at the rate of (i) one hundred dollars (\$100.00) per month for a maximum of 10 months for serving as a mentor during the school year, and (ii) one hundred dollars (\$100.00) for serving as a mentor for one day prior to the beginning of the school year.

Requested by: Senators Winner, Lee, Representatives Arnold, Grady, Preston

EXTRA PAY FOR NEW TEACHER DEVELOPMENT

Section 8.35. Of the funds appropriated to State Aid to Local School Administrative Units, the sum of eight hundred thousand dollars (\$800,000) for the 1997-98 fiscal year shall be used to provide every newly certified teacher with three extra days of employment for orientation and classroom preparation. These funds shall be used to compensate each newly certified teacher at the daily pay rate of an entry-level teacher.

Requested by: Senators Winner, Lee, Representatives Arnold, Grady, Preston

FUNDS TO IMPLEMENT THE ABC'S OF PUBLIC EDUCATION PROGRAM

Section 8.36. (a) Of the funds appropriated to State Aid to Local School Administrative Units, the State Board of Education may use up to seventy-two million four hundred thousand dollars (\$72,400,000) for the 1997-98 fiscal year to provide incentive funding for schools that meet or exceed the projected levels of improvement in student performance, in accordance with the ABC's of Public Education Program. In accordance with State Board of Education policy, incentive awards in schools that achieve higher than expected improvements may be up to: (i) one thousand five hundred dollars (\$1,500) for each teacher and for certified personnel; and (ii) five hundred dollars (\$500.00) for each teacher assistant. In accordance with State Board of Education policy, incentive awards in schools that meet the expected improvements may be up to: (i) seven hundred fifty dollars (\$750.00) for each teacher and for certified personnel; and (ii) three hundred seventy-five dollars (\$375.00) for each teacher assistant.

(b) The State Board of Education may use funds appropriated to State Aid to Local School Administrative Units for assistance teams to low-performing schools.

Requested by: Senators Winner, Lee, Representatives Arnold, Grady, Preston

EXTRA PAY FOR PROFESSIONAL DEVELOPMENT

Section 8.37. Of the funds appropriated to State Aid to Local School Administrative Units, the sum of six million eight hundred thousand dollars

(\$6,800,000) for the 1997-98 fiscal year and the sum of six million eight hundred thousand dollars (\$6,800,000) for the 1998-99 fiscal year shall be used only for assistance teams to low-performing schools and for professional development relating to the State Board's reading plan under the ABC's Plan and mathematics education.

Requested by: Senators Winner, Lee, Hartsell, Representatives Arnold, Grady, Preston, Moore

PUBLIC SCHOOL CALENDAR CHANGES/EXTRA PAY FOR EXTRA DAYS

Section 8.38. (a) G.S. 115C-84 is repealed.

(b) G.S. 115C-84.1(c) is repealed. It is the intent of the General Assembly to extend to all local school administrative units for one year the provisions of subsections (a) and (b) of G.S. 115C-84.1. Effective July 1, 1998, G.S. 115C-84.1, as amended by this subsection, is repealed.

(c) Part 2 of Article 8 of Chapter 115C of the General Statutes is amended by adding a new section to read:

"§ 115C-84.2. School calendar.

(a) School Calendar. -- Each local board of education shall adopt a school calendar consisting of 220 days all of which shall fall within the fiscal year. A school calendar shall include the following:

- (1) A minimum of 180 days and 1,000 hours of instruction covering at least nine calendar months. The local board shall designate when the 180 instructional days shall occur. The number of instructional hours in an instructional day may vary according to local board policy and does not have to be uniform among schools in the administrative unit. Local boards may approve school improvement plans that include days with varying amounts of instructional time. If school is closed early due to inclement weather, the day and the scheduled amount of instructional hours may count towards the required minimum to the extent allowed by State Board policy. The school calendar shall include a plan for making up days and instructional hours missed when schools are not opened due to inclement weather.
- (2) A minimum of 10 annual vacation leave days.
- (3) The same or an equivalent number of legal holidays occurring within the school calendar as those designated by the State Personnel Commission for State employees.
- (4) Ten days, as designated by the local board, for use as teacher workdays, additional instructional days, or other lawful purposes. A local board may delegate to the individual schools some or all of the 10 days to schedule under subdivision (5) of this subsection. A local board may schedule different purposes for different personnel on any given day and is not required to schedule the same dates for all personnel.
- (5) The remaining days shall be scheduled by each individual school by the school's principal in consultation with the school improvement team. Days may be scheduled for any of the purposes allowed under subdivision (4) of this subsection. Days

may be scheduled for different purposes for different personnel and there is no requirement to schedule the same dates for all personnel.

Local boards and individual schools are encouraged to use the calendar flexibility in order to meet the annual performance standards set by the State Board. Local boards of education shall consult with parents and the employed public school personnel in the development of the school calendar.

(b) Limitations. -- The following limitations apply when developing the school calendar:

- (1) The total number of teacher workdays for teachers employed for a 10 month term shall not exceed 200 days.
- (2) The calendar shall include at least 30 consecutive days when teacher attendance is not required unless: (i) the school is a year-round school; or (ii) the teacher is employed for a term in excess of 10 months.
- (3) School shall not be held on Sundays.
- (4) Veteran's Day shall be a holiday for all students enrolled in the public schools.

(c) Emergency Conditions. -- During any period of emergency in any section of the State where emergency conditions make it necessary, the State Board of Education may order general, and if necessary, extended recesses or adjournment of the public schools.

(d) Opening and Closing Dates. -- Local boards of education shall determine the dates of opening and closing the public schools under subdivision (a)(1) of this section. A local board may revise the scheduled closing date if necessary in order to comply with the minimum requirements for instructional days or instructional time. Different opening and closing dates may be fixed for schools in the same administrative unit."

(d) G.S. 115C-302 is repealed.

(e) Article 20 of Chapter 115C of the General Statutes is amended by adding a new section to read:

"§ 115C-302.1. Salary.

(a) Prompt Payment. -- Teachers shall be paid promptly when their salaries are due provided the legal requirements for their employment and service have been met. All teachers employed by any local school administrative unit who are to be paid from local funds shall be paid promptly as provided by law and as State-allotted teachers are paid.

(b) Salary Payments. -- State-allotted teachers shall be paid for a term of 10 months. State-allotted months of employment for vocational education to local boards shall be used for the employment of teachers of vocational and technical education for a term of employment to be determined by the local boards of education. However, local boards shall not reduce the term of employment for any vocational agriculture teacher personnel position that was 12 calendar months for the 1982-83 school year for any school year thereafter.

Each local board of education shall establish a set date on which monthly salary payments to State-allotted teachers shall be made. This set pay date

may differ from the end of the month of service. The daily rate of pay for teachers shall equal one twenty-second of the monthly rate of pay.

Teachers may be prepaid on the monthly pay date for days not yet worked. A teacher who fails to attend scheduled workdays or who has not worked the number of days for which the teacher has been paid and who resigns, is dismissed, or whose contract is not renewed shall repay to the local board any salary payments received for days not yet worked. A teacher who has been prepaid and continues to be employed by a local board but fails to attend scheduled workdays may be subject to dismissal under G.S. 115C-325 or other appropriate discipline.

Any individual teacher who is not employed in a year-round school may be paid in 12 monthly installments if the teacher so requests on or before the first day of the school year. The request shall be filed in the local school administrative unit which employs the teacher. The payment of the annual salary in 12 installments instead of 10 shall not increase or decrease the teacher's annual salary nor in any other way alter the contract made between the teacher and the local school administrative unit. Teachers employed for a period of less than 10 months shall not receive their salaries in 12 installments.

(c) Vacation. -- Included within the 10-month term shall be annual vacation leave at the same rate provided for State employees, computed at one-twelfth of the annual rate for State employees for each month of employment. Local boards shall provide at least 10 days of annual vacation leave at a time when students are not scheduled to be in regular attendance. However, instructional personnel who do not require a substitute may use annual vacation leave on days that students are in attendance. Vocational and technical education teachers who are employed for 11 or 12 months may, with prior approval of the principal, work on annual vacation leave days designated in the school calendar and may use those annual vacation leave days during the eleventh or twelfth month of employment.

On a day that pupils are not required to attend school due to inclement weather, but employees are required to report for a workday, a teacher may elect not to report due to hazardous travel conditions and to take an annual vacation day or to make up the day at a time agreed upon by the teacher and the teacher's immediate supervisor or principal. On a day that school is closed to employees and pupils due to inclement weather, a teacher shall work on the scheduled makeup day.

All vacation leave taken by the teacher will be upon the authorization of the teacher's immediate supervisor and under policies established by the local board of education. Annual vacation leave shall not be used to extend the term of employment.

Teachers may accumulate annual vacation leave days without any applicable maximum until June 30 of each year. In order that only 30 days of annual vacation leave carry forward to July 1, on June 30 of each year any teacher or other personnel paid on the teacher salary schedule who has accumulated more than 30 days of annual vacation leave shall:

- (1) Convert to either sick leave or pay the excess accumulation that is the result of the teacher having to forfeit annual vacation leave in order to attend required workdays; and

(2) Convert to sick leave the remaining excess accumulation.

Local boards of education shall identify which days are accumulated due to the teacher forfeiting annual vacation leave in order to attend required workdays. Actual payment for excess accumulated annual vacation leave may be made after July 1.

Upon separation from service due to service retirement, resignation, dismissal, reduction in force, or death, an employee shall be paid in a lump sum for accumulated annual leave not to exceed a maximum of 30 days. In addition to the maximum of 30 days pay for accumulated annual leave, upon separation from service due to service retirement, any teacher or other personnel paid on the teacher salary schedule with more than 30 days of accumulated annual vacation leave may convert some or all of the excess accumulation to sick leave for creditable service towards retirement or pay if the excess accumulation is the result of the teacher having to forfeit annual vacation leave in order to attend required workdays. Local boards of education shall identify which days are accumulated due to the teacher forfeiting annual vacation leave in order to attend required workdays. Employees going onto term disability may exhaust annual leave rather than be paid in a lump sum.

Notwithstanding any provisions of this subsection to the contrary, no person shall be entitled to pay for any vacation day not earned by that person.

(d) Personal Leave. -- Teachers earn personal leave at the rate of .20 days for each full month of employment not to exceed two days per year. Personal leave may be accumulated to a maximum of five days. Personal leave may be used only upon the authorization of the teacher's immediate supervisor, but if the request is made at least five days in advance, the teacher cannot be required to provide a reason for the request. Unless approved by the principal, a teacher shall not take personal leave on the first day the teacher is required to report for the school year, on required teacher workdays, or on the day before or the day after holidays or scheduled vacation days. Teachers may transfer personal leave days between local school administrative units. The local school administrative unit shall credit a teacher who has separated from service and is reemployed within 60 months from the date of separation with all personal leave accumulated at the time of separation. Local school administrative units shall not advance personal leave. Teachers using personal leave receive full salary less the required substitute deduction.

(e) Teachers in Year-Round Schools. -- Compensation for teachers employed in year-round schools shall be the same as teachers paid for a 10-month term, but those days may be scheduled over 12 calendar months. Annual leave, sick leave, workdays, holidays, salary, and longevity for teachers who are employed at year-round schools shall be equivalent to those of other teachers employed for the same number of months, respectively. Teachers paid for a term of 10 months in year-round schools shall receive their salary in 12 equal installments.

(f) Overpayment. -- Each local board of education shall sustain any loss by reason of an overpayment to any teacher paid from State funds.

(g) Service in Armed Forces. -- The State Board of Education, in fixing the State standard salary schedule of teachers as authorized by law, shall provide that teachers who entered the armed or auxiliary forces of the United States after September 16, 1940, and who left their positions for such service shall be allowed experience increments for the period of such service as though the same had not been interrupted thereby, in the event such persons return to the position of teachers, principals, and superintendents in the public schools of the State after having been honorably discharged from the armed or auxiliary forces of the United States.

(h) Teachers Paid From Other Funds. -- Every local board of education may adopt, as to teachers not paid out of State funds, a salary schedule similar to the State salary schedule, but it likewise shall recognize a difference in salaries based on different duties, training, experience, professional fitness, and continued service in the same school system. If a local board of education does not adopt a local salary schedule, the State salary schedule shall apply. No teacher shall receive a salary higher than that provided in the salary schedule, unless by action of the board of education a higher salary is allowed for special fitness, special duties, or under extraordinary circumstances.

Whenever a higher salary is allowed, the minutes of the board shall show what salary is allowed and the reason. A board of education may authorize the superintendent to supplement the salaries of all teachers from local funds, and the minutes of the board shall show what increase is allowed each teacher.

(i) Longevity Pay. -- Longevity pay shall be based on the annual salary on the employee's anniversary date.

(j) Parental Leave. -- A teacher may use annual leave, personal leave, or leave without pay to care for a newborn child or for a child placed with the teacher for adoption or foster care. The leave may be for consecutive workdays during the first 12 months after the date of birth or placement of the child, unless the teacher and local board of education agree otherwise."

(f) G.S. 115C-272(b)(1) reads as rewritten:

"(1) Each local board of education shall establish a set date on which monthly salary payments to superintendents shall be made. This set pay date may differ from the end of the calendar month of service. Superintendents shall only be paid for the days employed as of the set pay date. Payment for a full month when days employed are less than a full month is prohibited as this constitutes prepayment. The daily rate of pay shall equal the number of weekdays in the pay period. Included within their term of employment shall be annual vacation leave at the same rate provided for State employees. Included within the 12 months' employment each local board of education shall designate the same or an equivalent number of legal holidays as those designated by the State Personnel Commission for State employees."

(g) G.S. 115C-285(b)(1) reads as rewritten:

"(1) Classified principals and State-allotted supervisors shall be employed for a term of 12 calendar months. Each local board of

education shall establish a set date on which monthly salary payments to classified principals and State-allotted supervisors shall be made. This set pay date may differ from the end of the calendar month of service. Classified principals and State-allotted supervisors shall only be paid for the days employed as of the set pay date. Payment for a full month when days employed are less than a full month is prohibited as this constitutes prepayment. The daily rate of pay shall equal the number of weekdays in the pay period. They shall earn annual vacation leave at the same rate provided for State employees. On a day that employees are required to report for a workday but pupils are not required to attend school due to inclement weather, an employee may elect not to report due to hazardous travel conditions and to take one of his the employee's annual vacation days or to make up the day at the time agreed upon by the employee and his the employees's immediate supervisor. They shall be provided by the board the same or an equivalent number of legal holidays as those designated by the State Personnel Commission for State employees."

(h) G.S. 115C-316(a)(1) reads as rewritten:

"(1) Employees Other than Superintendents, Supervisors and Classified Principals on an Annual Basis. -- Each local board of education shall establish a set date on which monthly salary payments to employees other than superintendents, supervisors, and classified principals employed on an annual basis, shall be made. This set pay date may differ from the end of the calendar month of service. ~~These employees shall only be paid for the days employed as of the set pay date. Payment for a full month when days employed are less than a full month is prohibited as this constitutes prepayment.~~ Employees may be prepaid on the monthly pay date for days not yet worked. An employee who fails to attend scheduled workdays or who has not worked the number of days for which the employee has been paid and who resigns or is dismissed shall repay to the local board any salary payments received for days not yet worked. An employee who has been prepaid and who continues to be employed by a local board but fails to attend scheduled workdays may be subject to dismissal or other appropriate discipline. The daily rate of pay shall equal the number of weekdays in the pay period. Included within their term of employment shall be annual vacation leave at the same rate provided for State employees, computed at one-twelfth (1/12) of the annual rate for state employees for each calendar month of employment. On a day that employees are required to report for a workday but pupils are not required to attend school due to inclement weather, an employee may elect not to report due to hazardous travel conditions and to take one of his the employee's annual vacation days or to make up the day at a time agreed upon by the employee and his the employee's immediate supervisor or principal. On a day that school is closed

to employees and pupils due to inclement weather, an employee shall work on the scheduled makeup day. Included within their term of employment each local board of education shall designate the same or an equivalent number of legal holidays as those designated by the State Personnel Commission for State employees."

(i) G.S. 115C-316(a)(2) reads as rewritten:

"(2) School Employees Paid on an Hourly or Other Basis. -- Salary payments to employees other than those covered in G.S. 115C-272(b)(1), 115C-285(a)(1) and (2), ~~115C-302(a)(1) and (2), 115C-302.1(b), and 115C-316(a)(1)~~ shall be made at a time determined by each local board of education. Expenditures for the salary of these employees from State funds shall be within allocations made by the State Board of Education and in accordance with rules and regulations approved by the State Board of Education concerning allocations of State funds: Provided, that school employees employed for a term of 10 calendar months in year-round schools shall be paid in 12 equal installments: Provided further, that any individual school employee employed for a term of 10 calendar months who is not employed in a year-round school may be paid in 12 monthly installments if the employee so requests on or before the first day of the school year. Such request shall be filed in the administrative unit which employs the employee. The payment of the annual salary in 12 installments instead of 10 shall not increase or decrease said annual salary nor in any other way alter the contract between the employee and the said administrative unit. Employees may be prepaid on the set pay date for days not yet worked. An employee who fails to attend scheduled workdays or who has not worked the number of days for which the employee has been paid and who resigns or is dismissed shall repay to the local board any salary payments received for days not yet worked. An employee who has been prepaid and who continues to be employed by a local board but fails to attend scheduled workdays may be subject to dismissal or other appropriate discipline. The daily rate of pay shall equal the number of weekdays in the pay period. Included within the term of employment shall be provided for full-time employees annual vacation leave at the same rate provided for State employees, computed at one-twelfth (1/12) of the annual rate for State employees for each calendar month of employment, to be taken under policies determined by each local board of education. On a day that employees are required to report for a workday but pupils are not required to attend school due to inclement weather, an employee may elect not to report due to hazardous travel conditions and to take one of his annual vacation days or to make up the day at a time agreed upon by the employee and his immediate supervisor or principal. On a day that school is closed to employees and pupils due to inclement weather, the employee

shall work on the scheduled makeup day. Included within their term of employment, each local board of education shall designate the same or an equivalent number of legal holidays occurring within the period of employment as those designated by the State Personnel Commission for State employees."

(j) G.S. 115C-47(5) reads as rewritten:

"(5) To Fix Time of Opening and Closing Schools. -- The time of opening and closing the public schools shall be fixed pursuant to the provisions of G.S. 115C-84(e), under G.S. 115C-84.2."

(k) G.S. 115C-47(11) reads as rewritten:

"(11) To Determine the Length of the School Day, the School Month and the School Term. School Calendar. -- Local boards of education shall determine the school calendar under G.S. 115C-84.2. length of the school day, the school month and the school term pursuant to the provisions of G.S. 115C-84(a) through (c)."

(l) G.S. 115C-47(21) reads as rewritten:

"(21) It is the duty of every local board of education to provide for the prompt monthly payment of all salaries due teachers and other school officials and employees, and of all current bills and other necessary operating expenses. All salaries and bills shall be paid as provided by law for disbursing State and local funds.

The local board shall determine salary schedules of employees pursuant to the provisions of G.S. 115C-273, 115C-285(b), 115C-302(c), 115C-302.1(i), and 115C-316(b).

The authority for boards of education to issue salary vouchers to all school employees, whether paid from State or local funds, shall be a monthly payroll prepared on forms approved by the State Board of Education and containing all information required by the State Board of Education. This monthly payroll shall be signed by the principal of each school."

(m) By December 15, 1997, the State Board of Education shall review and revise its rules, policies, and guidelines to make them consistent with this section. The State Board may use its authority under G.S. 150B-21.1 regarding the adoption of temporary rules consistent with this section.

(n) Of the funds appropriated to State Aid to Local School Administrative Units, the sum of eight million five hundred thousand dollars (\$8,500,000) for the 1997-98 fiscal year and the sum of eight million five hundred thousand dollars (\$8,500,000) for the 1998-99 fiscal year shall be used by local boards of education to pay teachers for working on, and thereby forfeiting, vacation days, in accordance with G.S. 115C-302.1(c). The State Board of Education shall make available to each local school administrative unit sufficient funds to provide pay for a maximum of 4 days for each teacher who is qualified to receive additional pay for forfeited vacation days under G.S. 115C-302.1(c). Notwithstanding any other law, for the 1997-98 fiscal year the funds allotted under this subsection shall be available as follows: one half for days scheduled by the local board and one half for days scheduled by school principals in consultation with school improvement teams. For the 1998-99 fiscal year, the funds allotted under

this subsection shall be available for days scheduled by local boards and individual schools as follows: one half for days scheduled by the local board of education under G.S. 115C-84.2(a)(4); and one half for days scheduled by school principals in consultation with school improvement teams under G.S. 115C-84.2(a)(5).

(o) Subsections (a), (c), (f), (g), (j), and (k) of this section, and the daily rate of pay provisions in subsections (e), (h), and (i) of this section shall become effective July 1, 1998. All other subsections and provisions become effective July 1, 1997. For the 1997-98 fiscal year, the provisions of G.S. 115C-302.1(c), as enacted by subsection (e) of this section, that permit teachers to opt to have excess vacation leave converted to pay apply only if a local board of education or a school principal in consultation with the school improvement team opts to require the teachers to work on these days.

Requested by: Representatives Arnold, Grady, Preston, Senators Winner, Lee

GLOBAL CURRICULUM PROGRAM

Section 8.39. The funds appropriated in this act for the Global Curriculum Program shall be used to improve the knowledge and understanding of middle and high school students in the areas of international and cultural studies, by identifying and training master teachers and providing orientations and materials. The State Board of Education may enter into contracts to implement the Program.

Requested by: Representatives Reynolds, Arnold, Grady, Preston, Senators Winner, Lee, Hartsell

PILOT PROGRAM FOR COMPUTER NETWORK ADMINISTRATION

Section 8.40. (a) Of the funds appropriated in this act for State Aid to Local School Administrative Units, the State Board of Education shall use up to five hundred thousand dollars (\$500,000) for the 1997-98 fiscal year to establish pilot programs in the administration, design, and maintenance of computer networks in public schools business programs as part of Tech Prep and School-to-Work.

(b) The State Board of Education shall select local school administrative units to participate in the pilot program. In selecting the pilot units, the State Board shall consider (i) indicators of the readiness of a unit to participate in the program, (ii) the degree of community support for such a program, (iii) indicators of the need for the program in the community, such as lack of comparable training or resources in the community, and (iv) the availability of the necessary computer hardware.

The program shall be implemented in one to three high schools in each participating unit. Two teachers shall participate at each high school in which the program is implemented. Classes shall be limited to 15 students each.

(c) Each pilot program shall meet the following criteria:

- (1) The program shall be available to high school juniors and seniors and shall be four semesters in length, including a work-based learning component;

- (2) The program shall be taught by a certified North Carolina business education teacher who is appropriately certified in computer network administration, design, and maintenance;
 - (3) Courses shall be taught in an appropriate classroom/laboratory environment;
 - (4) The program shall be designed to extend into the community college system to provide engineer and instructor certification;
 - (5) Students successfully completing the program shall be provided an opportunity to take the appropriate certification examination in network administration, design, and maintenance; and
 - (6) The program shall be monitored and managed by the State Board of Education, in consultation with private industry business partners.
- (d) The State Board of Education may contract with outside consultants or with private nonprofit corporations to assist it in implementing and evaluating the pilot programs.
- (e) The State Board of Education shall evaluate the educational components of the programs.

The State Board of Education shall report the results of these evaluations to the Joint Legislative Education Oversight Committee by September 15, 1999.

Requested by: Representatives Arnold, Grady, Preston, Senators Winner, Lee, Hartsell

FUNDS TO GRADE STANDARDIZED TESTS

Section 8.41. Of the funds appropriated for the State Aid to Local School Administrative Units, the State Board of Education may use up to eight hundred fifty thousand dollars (\$850,000) for the 1997-98 fiscal year to grade short essay tests for grade levels designated by the State Board of Education.

The General Assembly encourages the Director of the Budget to include these funds in the continuation budget request for subsequent fiscal years.

Requested by: Representatives Arnold, Grady, Preston, Senators Winner, Lee

PROTOTYPE SCHOOL DESIGN CLEARINGHOUSE

Section 8.42. Of the funds appropriated to State Aid to Local School Administrative Units, the State Board of Education may use up to one hundred seventy thousand four hundred dollars (\$170,400) for the 1997-98 fiscal year and up to seventy-seven thousand nine hundred dollars (\$77,900) for the 1998-99 fiscal year to establish a prototype school design clearinghouse in accordance with G.S. 115C-521(e).

Requested by: Senators Lee, Winner, Hartsell, Representatives Arnold, Grady, Preston, Moore

STUDY OF TEACHER AND SCHOOL ADMINISTRATOR SUPPLY AND DEMAND

Section 8.43. (a) The State Board of Education, in coordination with the Board of Governors of The University of North Carolina and independent colleges and universities that offer teacher education programs, shall conduct a comprehensive teacher supply and demand study as provided in Section 4(b) of S.L. 1997-221.

(b) The State Board of Education, in coordination with the Board of Governors of The University of North Carolina, and independent colleges and universities that offer masters degree programs in school administration shall conduct a comprehensive school administrator supply and demand study as provided in section 4(c) of S.L. 1997-221.

(c) The State Board of Education may use up to seventy-five thousand dollars (\$75,000) of funds appropriated by this act to State Aid to Local School Administrative Units for the 1997-98 fiscal year for the supply and demand studies required under subsections (a) and (b) of this section.

(d) The State Board of Education may use up to fifty thousand dollars (\$50,000) of funds appropriated by this act to State Aid to Local School Administrative Units for the 1997-98 fiscal year to study principals' salaries including the relationship of principals' salaries to the salaries of teachers and other certified school personnel. The State Board of Education shall report the results of the study to the Joint Legislative Education Oversight Committee prior to December 15, 1998.

Requested by: Representatives Thompson, Clary, Justus, Weatherly, Baker, G. Wilson, Owens

ALLOCATION OF INVESTMENT EARNINGS ON SCHOOL BONDS TO SMALL COUNTY SCHOOL SYSTEMS

Section 8.44. (a) Section 5 of Chapter 631 of the 1995 Session Laws reads as rewritten:

"Sec. 5. Uses of Bond and Note Proceeds. -- The proceeds of Public School Building Bonds and notes shall be used for the purpose of making grants to counties for paying the cost of public school capital outlay projects.

Any additional moneys that may be received by means of a grant or grants from the United States of America or any agency or department thereof or from any other source to aid in financing the cost of any public school capital outlay projects authorized by this act may be placed by the State Treasurer in the Public School Building Bonds Fund or in a separate account or fund and shall be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this act.

Moneys in the Public School Building Bonds Fund or in any separate fund or account may be invested from time to time by the State Treasurer in the same manner permitted for investment of moneys belonging to the State or held in the State treasury except with respect to grant money to the extent otherwise directed by the terms of the grant, and any investment earnings shall be credited to the Public School Building Bonds Fund or the particular fund or account from which the investment was made. When the State Budget Officer determines that uncommitted funds are available, the State Board of Education shall allocate from these investment earnings the sum of one million four hundred forty thousand eight hundred twenty-one dollars (\$1,440,821) as a grant to Avery County, the sum of one million three

hundred ninety-three thousand sixty-nine dollars (\$1,393,069) as a grant to Alleghany County, the sum of one million three hundred fifty-seven thousand eight hundred thirty-five dollars (\$1,357,835) as a grant to Currituck County, and the sum of one million four hundred seventy-one thousand nine hundred seventeen dollars (\$1,471,917) as a grant to Polk County, because these counties (i) have a small county school system, (ii) did not receive an allocation under Section 6(b) of this act, and (iii) have school construction needs that were not met by the allocations under Section 6(c) of this act.

All moneys deposited in, or accruing to the credit of, the Public School Building Bonds Fund, other than moneys set aside for administrative expenses, including expenses related to determining compliance with applicable requirements of the federal tax law and cost of issuance, shall be used to pay the cost of public school capital outlay projects in the manner authorized by this act.

The proceeds of Public School Building Bonds and notes may be used with any other moneys made available by the General Assembly for public school capital outlay projects, including the proceeds of any other State bond issues, whether heretofore made available or that may be made available at the session of the General Assembly at which this act is ratified or any subsequent sessions. The proceeds of Public School Building Bonds and notes shall be expended and disbursed under the direction and supervision of the Director of the Budget. The funds provided by this act for public school capital outlay projects shall be disbursed for the purposes provided in this act upon warrants drawn on the State Treasurer by the State Controller, which warrants shall not be drawn until requisition has been approved by the Director of the Budget and which requisition shall be approved only after full compliance with the Executive Budget Act, Article 1 of Chapter 143 of the General Statutes.

The Director of the Budget shall provide quarterly reports to the State Board of Education, the Superintendent of Public Instruction, and the General Assembly on the expenditure of moneys from the Public School Building Bonds Fund. Reports to the General Assembly shall be filed with the Legislative Library, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Fiscal Research Division."

(b) This section is effective when this act becomes law.

Requested by: Senators Winner, Lee, Hartsell, Representatives Arnold, Grady, Preston, Moore

CLARIFICATION OF LAW ON IDENTIFICATION OF LOW-PERFORMING SCHOOLS

Section 8.45. The General Assembly finds that G.S. 115C-105.37, which pertains to the identification of low-performing schools, is being misconstrued and misunderstood. The General Assembly finds further that it is essential to resolve the misconstruction and misunderstanding of this statute immediately for the benefit of parents, children, and school systems; therefore, G.S. 115C-105.37(a) reads as rewritten:

"(a) The State Board of Education shall design and implement a procedure to identify low-performing schools on an annual basis. Low-

performing schools are those in which there is a failure to meet the minimum growth standards, as defined by the State Board, and a majority of students tested in accordance with G.S. 115C-174.11(c) are performing below grade level."

Requested by: Senators Winner, Lee, Hartsell, Representatives Arnold, Grady, Preston, Moore

REPORT ON PILOT AND MODEL PROGRAMS

Section 8.46. Local boards of education and nonprofit corporations that are implementing the following pilot or model programs with State funds shall report to the State Board of Education prior to December 15, 1998, on how those programs have improved student performance:

- (1) Total Quality Management;
- (2) A+ Schools;
- (3) AVID
- (4) Communities-in-Schools;
- (5) Global Curriculum;
- (6) Public-Private Partnership to Expand Technology in Public Schools;
- (7) Pilot Program for Computer Network Administration;
- (8) Schools Attuned Program; and
- (9) Model Teacher Education Program.

PART IX. COMMUNITY COLLEGES

Requested by: Senators Lee, Winner, Representatives Arnold, Grady, Preston

COMMUNITY COLLEGE FUNDING FLEXIBILITY

Section 9. A local community college may use all State funds allocated to it, except for Literacy Funds and Funds for New and Expanding Industries, for any authorized purpose that is consistent with the college's Institutional Effectiveness Plan. Each local community college shall submit an Institutional Effectiveness Plan that indicates to the State Board of Community Colleges how the college will use this funding flexibility to meet the demands of the local community and maintain a presence in all previously funded categorical programs.

Requested by: Senators Lee, Winner, Representatives Arnold, Grady, Preston

COMMUNITY COLLEGE TUITION AND FEE PAYMENTS

Section 9.1. The General Assembly finds that the North Carolina Community College System's change from a three quarter academic year to a two semester academic year may make it difficult for students to pay all of their tuition for a semester in a single payment; therefore, the General Assembly urges the community colleges to exercise the authority granted to them under State Board of Community College rules to permit students to make their payments at prescribed intervals instead of in a lump sum.

Requested by: Senators Lee, Winner, Representatives Arnold, Grady, Preston

ASSESSMENT OF OCCUPATIONAL EXTENSION FORMULA

Section 9.2. As the State Board of Community Colleges completes Phase Three of its consultant's study on the budget formula, the State Board shall reexamine whether and the extent to which the faculty-student ratio for occupational extension programs should vary by college size. The State Board shall also consider the appropriate funding level for occupational extension programs based on analysis of cost.

The State Board shall report the results of its studies to the Joint Legislative Education Oversight Committee prior to April 30, 1998.

Requested by: Senators Lee, Winner, Representatives Arnold, Grady, Preston

MODIFICATIONS IN THE FTE FUNDING FORMULA TO REFLECT FLUCTUATIONS IN ENROLLMENT

Section 9.3. The State Board of Community Colleges shall study alternative methods of protecting colleges from the budgetary impact of fluctuations in enrollment. The State Board shall report to the General Assembly on its recommended budget stability proposals and on an appropriate transition period prior to April 30, 1998.

Requested by: Senators Lee, Winner, Representatives Arnold, Grady, Preston

STUDENT CENSUS DATE

Section 9.4. (a) The census date for reporting student membership hours for curriculum and occupational extension classes shall be at the ten percent (10%) point of the class.

(b) Subsection (a) of this section does not apply to courses offered on a contact-hour basis.

Requested by: Senators Lee, Winner, Representatives Arnold, Grady, Preston

NEW AND EXPANDING INDUSTRY REPORT DATE MODIFIED

Section 9.5. G.S. 115D-5(i) reads as rewritten:

"(i) The State Board of Community Colleges shall report to the Joint Legislative Education Oversight Committee on March 1 and ~~September 1~~ October 1 of each year on expenditures for the New and Expanding Industry Program each fiscal year. The report shall include, for each company or individual that receives funds for New and Expanding Industry:

- (1) The total amount of funds received by the company or individual;
- (2) The amount of funds per trainee received by the company or individual;
- (3) The amount of funds received per trainee by the community college training the trainee;
- (4) The number of trainees trained by company and by community college; and
- (5) The number of years the companies or individuals have been funded.

~~The September 1, 1996, report shall include this information for the prior three fiscal years."~~

Requested by: Senator Perdue, Representatives Arnold, Grady, Preston
NEW AND EXPANDING INDUSTRY GUIDELINES

Section 9.6. (a) G.S. 115D-5 is amended by adding a new subsection to read:

"(j) The North Carolina Community College System's New and Expanding Industry Training (NEIT) Program Guidelines, which were adopted by the State Board of Community Colleges on April 18, 1997, apply to all funds appropriated for the Program after June 30, 1997. A project approved as an exception under these Guidelines, or these Guidelines as modified by the State Board of Community Colleges, shall be approved for one year only."

(b) Of the funds appropriated to the Department of Community Colleges for the New and Expanding Industry Program, the Department of Community Colleges may use up to one hundred twenty-five thousand dollars (\$125,000) a year to monitor compliance with the North Carolina Community College System's New and Expanding Industry Training (NEIT) Program Guidelines. The Joint Legislative Education Oversight Committee shall review the expenditure of these funds.

Requested by: Senator Plyler

ESTABLISHMENT OF A NEW MULTICAMPUS COMMUNITY COLLEGE TO SERVE ANSON AND UNION COUNTIES AUTHORIZED

Section 9.7. (a) On February 21, 1997, the State Board of Community Colleges recommended the establishment of a multicampus college whose administrative and service delivery area will be Anson County and Union County. Under the recommendation of the State Board, the structure of the Board of Trustees shall ensure equal representation to both Anson County and Union County and the new Board of Trustees shall select the name of the new college; therefore, Anson and Union Counties shall act pursuant to G.S. 115D-59 to jointly propose and submit to the State Board of Community Colleges such a contract for the establishment of the new institution to serve the multiple-county administrative area of Anson and Union Counties.

(b) Effective the later of the date this act becomes law and the date the State Board of Community Colleges approves the terms of the contract: (i) the new institution to serve the multiple-county administrative area of Anson and Union Counties is established and (ii) Anson Community College is abolished.

(c) The State Board of Community Colleges shall provide special oversight during the transition period to the new college structure.

Requested by: Senators Lee, Winner, Representatives Arnold, Grady, Preston

COMMUNITY COLLEGE PROGRAM EFFICIENCY

Section 9.8. The State Board of Community Colleges shall direct the community colleges to continue to review classes with low enrollment to

determine whether some classes should be terminated or consolidated into other programs to increase the efficiency of the Community College System. The State Board of Community Colleges shall report to the Joint Legislative Education Oversight Committee on the results of this review by November 1, 1998, and November 1, 1999.

Requested by: Senator Hartsell, Representatives Arnold, Grady, Preston
HOSPITAL-BASED NURSING PROGRAMS

Section 9.9. Funds appropriated to the Department of Community Colleges for hospital-based diploma nursing programs shall be made available to both associate degree nursing programs and diploma nursing programs.

Requested by: Senators Lee, Winner, Representatives Arnold, Grady, Preston

HRD MULTI-ENTRY/MULTI-EXIT CLASSES

Section 9.10. (a) The State Board of Community Colleges may allow the Human Resources Development Program to offer multi-entry/multi-exit classes for their students and to count the class hours on a contact-hour basis.

(b) Nothing in this section allows these classes to generate budget FTE.

Requested by: Senators Lee, Winner, Representatives Arnold, Grady, Preston

OPERATIONS AND MAINTENANCE OF PLANT FUNDS

Section 9.11. (a) Of the funds allocated to Central Carolina Community College for the 1998-99 fiscal year, the College may use up to one hundred ninety thousand dollars (\$190,000) for the operations and maintenance of the plant.

(b) Of the funds allocated to Southwestern Community College for the 1998-99 fiscal year, the College may use up to one hundred twenty-one thousand dollars (\$121,000) for the operations and maintenance of the plant.

(c) Central Carolina Community College and Southwestern Community College shall work with the counties in their service delivery areas to develop a plan for sharing the costs of operations and maintenance of plant costs equitably among the counties. The colleges shall report to the Joint Legislative Education Oversight Committee prior to March 15, 1998, on the plans they develop.

Requested by: Representative Berry
HOSIERY TECHNOLOGY CENTER FUNDS

Section 9.12. Funds in the amount of one hundred thousand dollars (\$100,000) that are appropriated in this act to the Department of Community Colleges for the Hosiery Technology Center of North Carolina are for the 1997-98 fiscal year only. It is the intent of the General Assembly that the Center operate in subsequent fiscal years without any special or supplemental funding.

Requested by: Senators Lee, Winner, Representatives Arnold, Grady, Preston, Hardy

STATE BOARD RESERVE FUND

Section 9.13. The State Board of Community Colleges shall use expansion budget funds in the amount of three hundred eighty thousand dollars (\$380,000) appropriated to the Department of Community Colleges for the 1997-98 fiscal year and two hundred fifty thousand dollars (\$250,000) appropriated for the 1998-99 fiscal year to increase the State Board Reserve. These additional funds in the Reserve shall be used to fund new programs in accordance with Board policies, including, for the 1997-98 fiscal year, the new program at Beaufort Community College for prisoners at the Hyde County Correctional Institution.

PART X. UNIVERSITIES

Requested by: Senators Lee, Winner, Representatives Preston, Arnold, Grady

WAKE FOREST AND DUKE — MEDICAL SCHOOL ASSISTANCE/FUNDING FORMULA

Section 10. (a) Funds appropriated in this act to the Board of Governors of The University of North Carolina for continuation of financial assistance to the medical schools of Duke University and Wake Forest University shall be disbursed on certifications of the respective schools of medicine that show the number of North Carolina residents as first-year, second-year, third-year, and fourth-year students in each medical school as of November 1, 1997, and November 1, 1998. Disbursement to Wake Forest University shall be made in the amount of eight thousand dollars (\$8,000) for each medical student who is a North Carolina resident, one thousand dollars (\$1,000) of which shall be placed by the school in a fund to be used to provide financial aid to needy North Carolina students who are enrolled in the medical school. The maximum aid given to any student from this fund in a given year shall not exceed the amount of the difference in tuition and academic fees charged by the school and those charged at the School of Medicine at the University of North Carolina at Chapel Hill.

Disbursement to Duke University shall be made in the amount of five thousand dollars (\$5,000) for each medical student who is a North Carolina resident, five hundred dollars (\$500.00) of which shall be placed by the school in a fund to be used to provide student financial aid to financially needy North Carolina students who are enrolled in the medical school. No individual student may be awarded assistance from this fund in excess of two thousand dollars (\$2,000) each year. In addition to this basic disbursement for each year of the biennium, a disbursement of one thousand dollars (\$1,000) shall be made for each medical student who is a North Carolina resident in the first-year, second-year, third-year, and fourth-year classes to the extent that enrollment of each of those classes exceeds 30 North Carolina students.

The Board of Governors shall establish the criteria for determining the eligibility for financial aid of needy North Carolina students who are enrolled in the medical schools and shall review the grants or awards to

eligible students. The Board of Governors shall adopt rules for determining which students are residents of North Carolina for the purposes of these programs. The Board shall also make any regulations as necessary to ensure that these funds are used directly for instruction in the medical programs of the schools and not for religious or other nonpublic purposes. The Board shall encourage the two schools to orient students toward primary care, consistent with the directives of G.S. 143-613(a). The two schools shall supply information necessary for the Board to comply with G.S. 143-613(d).

(b) If the funds appropriated in this act to the Board of Governors of The University of North Carolina for continuation of financial assistance to the medical schools of Duke University and Wake Forest University are insufficient to cover the enrolled students in accordance with this section, then the Board of Governors may transfer unused funds from other programs in the Related Educational Programs budget code to cover the extra students.

Requested by: Senators Lee, Winner, Representatives Adams, Oldham
UNC EQUITY FUNDS/CAPITAL FACILITIES STUDY

Section 10.1. (a) The funds appropriated to the Board of Governors of The University of North Carolina for equity funds are to address relative inequities in State operating funding revealed through a study of the constituent institutions in the university system. The General Assembly notes that the study dealt with equity based upon current funding from State appropriations and tuition for operations and did not consider historical equity in funding for physical facilities or funding from non-State sources. Therefore, in making this appropriation, the General Assembly does not conclude that the total funding of any institution, including specifically the historically black universities, is adequate in light of all considerations.

(b) Based on findings of the Legislative Study Commission on the Status of Education at The University of North Carolina, the General Assembly is still concerned about perceived differences in the quality of capital facilities on the different campuses, which may impact the ability of some campuses to attract students and faculty. Since the Board of Governors has recently completed studies of equity of funding for operating costs among the constituent institutions and of the Board of Governors' capital improvements request process, it is timely that the question of equity of facilities be addressed.

The Board of Governors of The University of North Carolina shall study the relative equity and adequacy of the physical facilities of its constituent institutions. The study shall consider the condition of the facilities, whether or not facilities are comparable among the campuses given the different missions of the institutions, comparable adequacy of the physical facilities given the size and projected growth of the school, and such other factors deemed appropriate by the Board of Governors. The study shall include all facilities contributing to the accomplishment of the campuses' missions. First, the Board of Governors shall study those facilities considered central to the academic missions of the campuses that are generally supported from General Fund appropriations. Secondly, the

Board of Governors shall study those facilities that contribute to the overall missions of the campuses, including residential, dining, research, and other facilities regardless of the sources of funding. The Board of Governors shall consider its policies on funding of self-liquidating projects and whether those policies contribute to any inequities among the campuses, including the overall costs to the students.

The Board of Governors shall report to the General Assembly by January 15, 1999, with the results of its study. The report shall include recommendations to rectify any inequities or inadequacies found in the study.

Requested by: Senators Lee, Winner, Rand, Shaw of Cumberland,
Representatives Preston, Arnold, Grady, Kinney
MILITARY RESIDENCY/UNC TUITION

Section 10.2. G.S. 116-143.3(b) reads as rewritten:

"(b) Any member of the armed services qualifying for admission to an institution of higher education as defined in G.S. 116-143.1(a)(3) but not qualifying as a resident for tuition purposes under G.S. 116-143.1 shall be charged the out-of-State tuition rate; provided, that the out-of-State tuition shall be forgiven to the extent that the out-of-State tuition rate exceeds any amounts payable to the institution or the service member by the service member's employer by reason of enrollment pursuant to such admission while the member is abiding in this State incident to active military duty, plus the amount that represents the percentage of the out-of-State tuition rate paid to the institution or the service member by the service member's employer multiplied by the in-State tuition rate and then subtracted from the in-State tuition rate. Any member of the armed services who does not qualify for any payment by the member's employer shall be eligible to be charged the in-State tuition rate and shall pay the full amount of the in-State tuition rate."

Requested by: Representatives Preston, Arnold, Grady
**FUNDING FOR OFF-CAMPUS AND DISTANCE LEARNING DEGREE-
CREDIT EXTENSION INSTRUCTION**

Section 10.3. The General Assembly has focused attention in recent sessions on increasing access and providing for additional enrollment in higher education. The 1995 Session Laws directed the Board of Governors of The University of North Carolina to "consider different funding approaches to meeting the needs of an increasing pool of high school graduates, as well as adult learners unable to return to a university campus for additional education." Among the methods the Board was directed to consider was funding for off-campus degree programs "on a basis more comparable to the current regular term funding." The Board recommended that "state-appropriated support for instruction be extended to all forms of regular term degree-credit instruction, whether it occurs on campus or off-campus, through traditional means or distance learning technologies." It stated that the funding mechanisms for implementing this recommendation would be addressed in the new funding model currently being developed. In a second report responding to legislative directives, the Board found

evidence of deep and widespread desire for access to higher education throughout the State and reiterated the importance of funding comparable to that provided for regular-term instruction in order to meet these demands and provide an alternative means of delivering education to the large number of North Carolinians expected to seek higher education in the future.

The Board of Governors shall provide to the 1998 reconvened session of the General Assembly the cost estimates for funding off-campus and distance learning degree-credit extension instruction that is proportional to regular-term funding and shall recommend tuition rates that are comparable to the rates charged for regular-term instruction. The cost estimates shall be sufficient to provide for projected off-campus and distance learning enrollments in the 1998-99 fiscal year. These cost estimates request shall be provided to the Chairs of the House and Senate Appropriations Committees on Education and to the Chairs of the House and Senate Appropriations Committees by March 1, 1998.

Requested by: Senators Lee, Winner, Representatives Preston, Arnold, Grady

AID TO STUDENTS ATTENDING PRIVATE COLLEGES PROCEDURE

Section 10.4. (a) Funds appropriated in this act to the Board of Governors of The University of North Carolina for aid to private colleges shall be disbursed in accordance with the provisions of G.S. 116-19, 116-21, and 116-22. These funds shall provide up to seven hundred fifty dollars (\$750.00) per full-time equivalent North Carolina undergraduate student enrolled at a private institution as of October 1 each year.

These funds shall be placed in a separate, identifiable account in each eligible institution's budget or chart of accounts. All funds in this account shall be provided as scholarship funds for needy North Carolina students during the fiscal year. Each student awarded a scholarship from this account shall be notified of the source of the funds and of the amount of the award. Funds not utilized under G.S. 116-19 shall be available for the tuition grant program as defined in subsection (b) of this section.

(b) In addition to any funds appropriated pursuant to G.S. 116-19 and in addition to all other financial assistance made available to private educational institutions located within the State, or to students attending these institutions, there is granted to each full-time North Carolina undergraduate student attending an approved institution as defined in G.S. 116-22, a sum, not to exceed one thousand four hundred fifty dollars (\$1,450) per academic year, which shall be distributed to the student as hereinafter provided.

The tuition grants provided for in this section shall be administered by the State Education Assistance Authority pursuant to rules adopted by the State Education Assistance Authority not inconsistent with this section. The State Education Assistance Authority shall not approve any grant until it receives proper certification from an approved institution that the student applying for the grant is an eligible student. Upon receipt of the certification, the State Education Assistance Authority shall remit at such times as it shall prescribe the grant to the approved institution on behalf, and to the credit, of the student.

In the event a student on whose behalf a grant has been paid is not enrolled and carrying a minimum academic load as of the tenth classroom day following the beginning of the school term for which the grant was paid, the institution shall refund the full amount of the grant to the State Education Assistance Authority. Each approved institution shall be subject to examination by the State Auditor for the purpose of determining whether the institution has properly certified eligibility and enrollment of students and credited grants paid on the behalf of the students.

In the event there are not sufficient funds to provide each eligible student with a full grant:

- (1) The Board of Governors of The University of North Carolina, with the approval of the Office of State Budget and Management, may transfer available funds to meet the needs of the programs provided by subsections (a) and (b) of this section; and
- (2) Each eligible student shall receive a pro rata share of funds then available for the remainder of the academic year within the fiscal period covered by the current appropriation.

Any remaining funds shall revert to the General Fund.

(c) Expenditures made pursuant to this section may be used only for secular educational purposes at nonprofit institutions of higher learning. Expenditures made pursuant to this section shall not be used for any student who:

- (1) Is incarcerated in a State or federal correctional facility for committing a Class A, B, B1, or B2 felony; or
- (2) Is incarcerated in a State or federal correctional facility for committing a Class C through I felony and is not eligible for parole or release within 10 years.

(d) The State Education Assistance Authority shall document the number of full-time equivalent North Carolina undergraduate students that are enrolled in off-campus programs and the State funds collected by each institution pursuant to G.S. 116-19 for those students. The State Education Assistance Authority shall also document the number of scholarships and the amount of the scholarships that are awarded under G.S. 116-19 to students enrolled in off-campus programs. An "off-campus program" is any program offered for degree credit away from the institution's main permanent campus.

The State Education Assistance Authority shall include in its annual report to the Joint Legislative Education Oversight Committee the information it has compiled and its findings regarding this program.

Requested by: Senators Lee, Winner, Representatives Preston, Arnold, Grady

AID TO STUDENTS ATTENDING PRIVATE COLLEGES/LEGISLATIVE TUITION GRANT LIMITATIONS

Section 10.5. (a) No Legislative Tuition Grant funds shall be expended for a program at an off-campus site of a private institution, as defined in G.S. 116-22(1), established after May 15, 1987, unless (i) the private institution offering the program has previously notified and secured agreement from other private institutions operating degree programs in the

county in which the off-campus program is located or operating in the counties adjacent to that county or (ii) the degree program is neither available nor planned in the county with the off-campus site or in the counties adjacent to that county.

An "off-campus program" is any program offered for degree credit away from the institution's main permanent campus.

(b) Any member of the armed services as defined in G.S. 116-143.3(a), abiding in this State incident to active military duty, who does not qualify as a resident for tuition purposes as defined under G.S. 116-143.1, is eligible for a Legislative Tuition Grant pursuant to this section if the member is enrolled as a full-time student. The member's Legislative Tuition Grant shall not exceed the cost of tuition less any tuition assistance paid by the member's employer.

Requested by: Senators Lee, Winner, Representatives Preston, Arnold, Grady

DISTINGUISHED PROFESSORS ENDOWMENT TRUST FUND

Section 10.6. G.S. 116-41.18(a) reads as rewritten:

"(a) Each constituent institution that receives, through private gifts and an allocation by the Board of Governors, funds for the purpose shall, under procedures established by rules of the Board of Governors and the board of trustees of the constituent institution, select a holder of the Distinguished Professorship. Once given, that designation shall be retained by the distinguished professor as long as he remains in the full-time service of the institution, institution as a faculty member, or for more limited lengths of time when authorized by the Board of Governors and the board of trustees at the institution when the Distinguished Professorship is originally established or vacated. When a distinguished professorship becomes vacant, it shall remain assigned to the institution and another distinguished professor shall be selected under procedures established by rules of the Board of Governors and the board of trustees of the constituent institution."

Requested by: Senators Lee, Winner, Representatives Preston, Arnold, Grady

MANUFACTURING EXTENSION PARTNERSHIP

Section 10.7. Of the funds appropriated to the Board of Governors of The University of North Carolina, the sum of nine hundred thousand dollars (\$900,000) for the 1997-98 fiscal year shall be allocated to North Carolina State University to match additional federal funds for the Manufacturing Extension Partnership Program.

Requested by: Senators Lee, Winner, Representatives Preston, Arnold, Grady

UNC OVERHEAD RECEIPT FLEXIBILITY

Section 10.8. G.S. 116-30.2 reads as rewritten:

"§ 116-30.2. *Appropriations to special responsibility constituent institutions.*

All General Fund appropriations made by the General Assembly for continuing operations of a special responsibility constituent institution of The University of North Carolina shall be made in the form of a single sum to

each budget code of the institution for each year of the fiscal period for which the appropriations are being made. Notwithstanding G.S. 143-23(a1), G.S. 143-23(a2), and G.S. 143-23(a3) and G.S. 120-76(8), each special responsibility constituent institution may expend monies from the overhead receipts special fund budget code and the General Fund monies so appropriated to it in the manner deemed by the Chancellor to be calculated to maintain and advance the programs and services of the institutions, consistent with the directives and policies of the Board of Governors. The preparation, presentation, and review of General Fund budget requests of special responsibility constituent institutions shall be conducted in the same manner as are requests of other constituent institutions. The quarterly allotment procedure established pursuant to G.S. 143-17 shall apply to the General Fund appropriations made for the current operations of each special responsibility constituent institution. All General Fund monies so appropriated to each special responsibility constituent institution shall be recorded, reported, and audited in the same manner as are General Fund appropriations to other constituent institutions."

Requested by: Senators Lee, Winner, Representatives Preston, Arnold, Grady

UNC ASSISTANCE TO PUBLIC SCHOOLS

Section 10.9. Funding in this act is provided to the Board of Governors of The University of North Carolina for several initiatives to work cooperatively with the public schools to improve public education in North Carolina. The Board of Governors shall redirect the funding provided for educational consortia at eight constituent institutions to these initiatives requested for the 1997-99 biennium. The Board of Governors shall redirect at least one-third of the consortia appropriations during the 1997-98 fiscal year and the balance for the 1998-99 fiscal year toward these efforts. The Board of Governors shall also reallocate sufficient funds from other resources to fully fund these initiatives for the 1997-98 fiscal year.

Upon request of a constituent institution with a current consortium program, the Board of Governors may direct continual funding to that program.

Requested by: Senators Lee, Winner, Hartsell, Representatives Arnold, Grady, Preston, Moore

AREA HEALTH EDUCATION CENTERS FUNDING

Section 10.10. Of the funds appropriated in this act to the Board of Governors of The University of North Carolina, the sum of two million seven hundred fifty thousand dollars (\$2,750,000) for the 1997-98 fiscal year and the sum of two million seven hundred fifty thousand dollars (\$2,750,000) for the 1998-99 fiscal year shall be allocated to the Area Health Education Centers programs for continuation of the restructuring of educational programs for health care professionals. Of these funds, sufficient funds shall be allocated to the Cabarrus Family Medicine Residency Program to provide assistance comparable to other family medicine residency slots for 16 residencies. The Cabarrus Family Medicine Residency Program shall provide all information required by The University

of North Carolina Board of Governors to comply with the reporting requirements of G.S. 143-613.

Requested by: Senators Lee, Winner, Representatives Preston, Arnold, Grady

UNC LIBRARIES FUNDING

Section 10.11. Of the funds appropriated to the Board of Governors of The University of North Carolina in this act, the sum of two million dollars (\$2,000,000) shall be allocated each year of the biennium for enhancement of libraries for the constituent institutions. Of this amount, a sufficient sum each year shall be used for the development of the NC-LIVE project, a cooperative effort of The University of North Carolina, the Department of Community Colleges, and the State Library of North Carolina designed to improve access to information resources across the State and to reduce the duplication of expenditures for library resources.

Requested by: Senators Lee, Winner, Representatives Preston, Arnold, Grady

COOPERATIVE EXTENSION SERVICES

Section 10.12. (a) The Joint Legislative Education Oversight Committee and the Board of Governors of The University of North Carolina shall undertake a joint review and study of the role, funding, personnel resources, programs, and other aspects of the Cooperative Extension Services of The University of North Carolina given the changing nature of the agricultural base of the State.

(b) The study shall consider all of the following:

- (1) The role of cooperative extension services in the environmental aspects of agricultural activities and other activities.
- (2) The reduced or increased needs for various current extension services due to changes in the State's agricultural base.
- (3) The top priority agricultural needs of the State and whether or not current cooperative extension services are aligned with those needs.
- (4) The duplication, if any, of cooperative extension services with services offered by other entities.

(c) The Joint Legislative Education Oversight Committee and the Board of Governors may appoint a subcommittee to work cooperatively on this study. The Chairs of the Joint Legislative Education Oversight Committee shall designate one member of the Subcommittee to serve as a cochair and the Chair of the Board of Governors shall designate one member of the Subcommittee to serve as a cochair.

(d) The Subcommittee shall meet at such times and places as the Subcommittee cochairs designate. The facilities of the State Legislative Building and the Legislative Office Building shall be available to the Subcommittee subject to the approval of the Legislative Services Commission. The facilities of the university system shall also be available to the Subcommittee.

(e) Subject to the approval of the Legislative Services Commission, the staff resources of the Legislative Services Commission shall be available to

the Subcommittee without cost except for travel, subsistence, supplies, and materials. Subject to the approval of the Board of Governors, the staff resources of the Board of Governors shall also be available to the Subcommittee without cost except for travel, subsistence, supplies, and materials which shall be the expense of the Board of Governors.

(f) The Joint Legislative Education Oversight Committee and the Board of Governors shall report their findings to the General Assembly by May 1, 1998.

Requested by: Senators Lee, Winner, Representatives Preston, Arnold, Grady

SCHOLARSHIP FUND BALANCES

Section 10.13. The remaining balances in the Social Worker Education Loan Fund shall be transferred to the Nurse Scholars Scholarship Fund account to implement the budget reductions in that program.

Requested by: Senator Perdue, Representatives Preston, Arnold, Grady

UNIVERSITY FIRE SAFETY COSTS LIMITED

Section 10.14. G.S. 116-44.7 reads as rewritten:

"§ 116-44.7. Exemption from certain fees and charges.

No water system serving a residence hall or fraternity or sorority housing shall levy or collect any water-meter fee, water-hydrant fee, tap fee, or similar service fee on a residence hall or fraternity or sorority house with respect to supporting a supplemental fire safety protection system in excess of the actual marginal cost to the water system to support the fire safety protection system."

Requested by: Senators Odom, Perdue, Plyler, Representatives Preston, Arnold, Grady

ACADEMIC ENHANCEMENT FUNDS CLARIFICATION

Section 10.15. In Section 16.11 of Chapter 18 of the Session Laws for the 1996 Second Extra Session, the Board of Governors of The University of North Carolina were directed to allocate, for the 1996-97 fiscal year the amount of seventeen million eight hundred thousand dollars (\$17,800,000) between the constituent institutions classified as Research University I campuses in direct proportion to the funds to be raised on each campus for the 1996-97 fiscal year from the tuition increases authorized under Section 15.15 of Chapter 507 of the 1995 Session Laws.

There has been no directive as to which budget codes the funds should be credited. Since these funds are part of the continuation budget, each campus shall have the authority to allocate these funds among the General Fund budget codes on that campus based on campus priorities.

Requested by: Representatives Preston, Arnold, Grady

ASU CENTENNIAL CELEBRATION

Section 10.16. The Board of Governors of The University of North Carolina shall allocate from balances in its overhead receipts fund the sum of two hundred thousand dollars (\$200,000) for the 1997-98 fiscal year to

Appalachian State University for costs associated with the celebration of the one hundredth anniversary of the founding of Appalachian State University.

Requested by: Senators Odom, Perdue, Plyler, Representatives Preston, Arnold, Grady

AGRICULTURAL ENHANCEMENT

Section 10.17. (a) North Carolina State University may allocate a total of five hundred thousand dollars (\$500,000) from the overhead receipts special fund code for the 1997-98 fiscal year to the General Fund budget codes for the Agricultural Research Service and the Cooperative Extension Service for the line items from which State funds were transferred during the 1996-97 fiscal year for salary increases for employees exempt from the State Personnel Act.

(b) For the 1997-98 fiscal year, the required reversion amounts from the General Fund appropriations as required by G.S. 116-30.3 for the Agricultural Research Service budget code and the Cooperative Extension Service budget code at North Carolina State University are reduced by a total of five hundred thousand (\$500,000) for the 1997-98 fiscal year. North Carolina State University shall reallocate this amount of funding into the line items from which State funds were transferred during the 1996-97 fiscal year for salary increases for employees exempt from the State Personnel Act.

(c) The Board of Governors of The University of North Carolina shall review the issue of the salary request made by the Board for "Program Enhancement" for the Agricultural Research Service and the Cooperative Extension Service and make a recommendation to the General Assembly on how to address the issues raised by the request. The Board shall include in its recommendations to the General Assembly the Board's policies on providing salary increases that cost more than the level of expansion budget funding provided by the General Assembly for that purpose. The Board's recommendations shall be submitted to the Chairs of the House and Senate Appropriations Committees and to the Chairs of the House and Senate Appropriations Subcommittees on Education by March 15, 1998.

Requested by: Senators Odom, Perdue, Plyler

UNC OVERHEAD RECEIPTS

Section 10.18. Of the funds appropriated to the Board of Governors of The University of North Carolina in this act, the sum of seven million seven hundred thousand six hundred fifty-nine dollars (\$7,700,659) shall be allocated for the 1998-99 fiscal year to the campuses of the constituent institutions to replace the ten percent (10%) of overhead receipts that currently support General Fund budget code operations. The Board of Governors shall report to the Senate and House Appropriations Subcommittees on Education on expenditures of these funds.

Requested by: Senators Odom, Perdue, Plyler

UNC MANAGEMENT FLEXIBILITY

Section 10.19. G.S. 116-30.3 reads as rewritten:

"§ 116-30.3. *Reversions.*

(a) Of the General Fund current operations appropriations credit balance remaining at the end of each fiscal year in each budget code of a special responsibility constituent institution, except for the budget code of the Area Health Education Centers of the University of North Carolina at Chapel Hill, any amount greater than two percent (2%) of the General Fund appropriation for that fiscal year may be carried forward by the institution to the next fiscal year and may be used for one-time expenditures that will not impose additional financial obligations on the State. Of the General Fund current operations appropriations credit balance remaining in the budget code of the Area Health Education Centers of the University of North Carolina at Chapel Hill, any amount greater than one percent (1%) of the General Fund appropriation for that fiscal year may be carried forward in that budget code to the next fiscal year and may be used for one-time expenditures that will not impose additional financial obligations on the State. However, the amount carried forward under this section shall not exceed two and one-half percent (2 1/2%) of the General Fund appropriation. The Director of the Budget, under the authority set forth in G.S. 143-25, shall establish the General Fund current operations credit balance remaining in each budget code of each institution.

(b) An institution shall cease to be a special responsibility constituent institution under the following circumstances:

- (1) An institution, other than the Area Health Education Centers of the University of North Carolina, does not revert at least two percent (2%) of its General Fund current operations credit balance remaining in each budget code of that institution, or
- (2) The Area Health Education Centers of the University of North Carolina at Chapel Hill does not revert at least one percent (1%) of its General Fund current operations credit balance remaining in its budget code.

However, if the Board of Governors finds that the low reversion rate is due to adverse and unforeseen conditions, the Board may allow the institution to remain a special responsibility constituent institution for one year to come into conformity with this section. The Board may make this exception only one time for any special responsibility constituent institution, and shall report these exceptions to the Joint Legislative Commission on Governmental Operations.

(c) One-half of the reversions required in subsections (a) and (b) of this section shall be returned to the General Fund credit balance at the end of each fiscal year.

(d) For fiscal year 1997-98 and each subsequent fiscal year, one-half of the reversions required in subsections (a) and (b) of this section shall be available to each special responsibility constituent institution of The University of North Carolina. Those funds shall be used by the institution at the campus level for any of the following: the nonrecurring costs of technology, including the installation of technology infrastructure for academic facilities on the campus of the special responsibility constituent institution, the implementation by the constituent institution of its campus technology plan as approved by the Board of Governors, or for libraries. The funds shall not be used to support positions. Each special responsibility

constituent institution shall report annually to the Board of Governors regarding how the institution spent the funds made available under this section."

Requested by: Senators Odom, Perdue, Plyler
JOHN KERNODLE FUND

Section 10.20. Funds in the amount of one million dollars (\$1,000,000) are appropriated in this act to the Board of Governors of The University of North Carolina for the Lineberger Cancer Center at the University of North Carolina at Chapel Hill for cancer research. These funds are appropriated in memory of Dr. John Kernodle.

Requested by: Representative Arnold
TUITION POLICY

Section 10.21. (a) Notwithstanding G.S. 116-143, the Board of Governors of The University of North Carolina may set tuition rates for students in the Masters of Business Administration and the Masters of Accounting programs of the School of Business at the University of North Carolina at Chapel Hill that are higher than those currently set pursuant to G.S. 116-143. If the Board of Governors does set higher tuition rates for those programs, then the additional funds generated by such tuition increases shall be used to enhance programs of the School of Business at the University of North Carolina at Chapel Hill. A minimum of five percent (5%) of the funds so generated shall be used for need-based financial aid for North Carolina residents in the Masters of Business Administration program and the Masters of Accounting program.

(b) If the Board of Governors increases tuition pursuant to this section, the action shall be based on plans presented by the School of Business to the President and the Board of Governors with the approval of the Chancellor. The President and the Board of Governors shall notify the Office of State Budget and Management and the Fiscal Research Division of the amount of the increase, the additional receipts anticipated, and the allocation of these funds under these plans.

(c) The Board of Governors shall conduct a study of tuition levels, other charges, and costs of graduate and professional education and shall establish policies with respect to tuition differentials that are educationally and fiscally sound for such programs based on the results of this study. The Board of Governors shall adjust the tuition rates for students in the Masters of Business Administration and the Masters of Accounting programs of the School of Business of the University of North Carolina at Chapel Hill to align with its policies on tuition differentials as developed pursuant to this section. The Board of Governors shall report to the Joint Legislative Education Oversight Committee by January 15, 1999, regarding the findings of its study and shall also report on any action and results of actions taken under this section.

(d) The authority provided under this section may provide for phased implementation over a period of up to three years, beginning with the 1998-99 academic year. Tuition increases implemented under this section shall in no event exceed a total of two thousand five hundred dollars (\$2,500) per

semester per student during the period fiscal year 1998-99 through fiscal year 2000-2001. The total increase in tuition by the end of fiscal year 2000-2001 shall not exceed five thousand dollars (\$5,000).

Requested by: Senators Plyler, Perdue, Odom, Representatives Holmes, Esposito, Creech, Crawford

INSTITUTE OF GOVERNMENT/KNAPP BUILDING

Section 10.22. The University of North Carolina at Chapel Hill may proceed with the construction of the addition and renovation to the Knapp Building in planned phases. The University of North Carolina at Chapel Hill may proceed with contracts for site development, installation of utilities infrastructure, and such other phases that can be completed within existing funding in a fiscally prudent manner.

Requested by: Senators Lee, Winner, Perdue, Hartsell, Representatives Arnold, Grady, Preston, Moore

STUDY IMPACT OF BUDGET CUTS ON UNC HOSPITALS AT UNC-CHAPEL HILL

Section 10.23. The Board of Governors of The University of North Carolina shall study the impact, if any, that reductions in General Fund operating support have had on UNC Hospitals at Chapel Hill, the hospitals' ability to serve and treat indigent patients, and the impact that continuing those same cuts may or may not have.

In conducting the study, the Board shall consider the impacts of managed care, federal reimbursement for Medicare and Medicaid, and increased competition in the health care industry on the Hospitals' ability to generate sufficient revenues to carry out its missions for medical education and quality health care.

The Board of Governors shall report its findings and recommendations regarding this study to the Joint Legislative Education Oversight Committee by April 15, 1998.

Requested by: Senators Lee, Winner, Representatives Arnold, Grady, Preston

NATURAL RESOURCES LEADERSHIP INSTITUTE

Section 10.24. For the 1997-98 fiscal year, the requirement for reversion of General Fund appropriations as required by G.S. 116-30.3 for the Cooperative Extension Service budget code at North Carolina State University is reduced by one hundred fifty thousand dollars (\$150,000) in order to provide funding for the Natural Resources Leadership Institute sponsored by the Cooperative Extension Service.

PART XI. DEPARTMENT OF HUMAN RESOURCES

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

DISPOSITION OF DISPROPORTIONATE SHARE RECEIPT CLARIFICATION

Section 11. For the 1997-98 fiscal year, as it receives funds associated with Disproportionate Share Payments from the State hospitals, the Division of Medical Assistance shall deposit funds appropriated for the Medicaid program in a sum equal to the federal share of the Disproportionate Share Payments as departmental receipts. Any of these funds that are not appropriated by the General Assembly shall be reserved by the State Controller for future appropriation.

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

DEVELOPMENT OF REORGANIZATION PLAN

Section 11.2. (a) The Department of Health and Human Services shall, using the report of KPMG Peat Marwick, L.L.P. to the General Assembly dated March 20, 1997, develop and begin implementing a plan to reorganize the Department of Human Resources. The reorganization plan shall be designed:

- (1) To structure planning, management, and service delivery around a strategic shared mission and long-range vision for the Department;
- (2) To better achieve a consolidated family-center services orientation that facilitates identification of gaps in services, improvement of efficient and effective access to services, and reduces fragmentation of leadership, management, and service delivery;
- (3) To facilitate a system of incentives within the Department and within local agencies that will reinforce personnel efforts at integrated services delivery; and
- (4) To enable assessment of program performance in terms of actual client outcomes, effective and efficient service delivery, and the impact services and departmental functions are having in the lives of clients, rather than in terms of process measures.

(b) With funds from within the Department, and in consultation with the House and Senate Appropriations Subcommittees on Human Resources, the Department of Health and Human Services shall engage an entity with proven expertise to provide the Department leadership and management with the knowledge and tools needed to ensure a change in departmental culture that creates an environment:

- (1) Where there is an understanding and appreciation for a departmental mission and primary goals that portray a coordinated system of services, rather than a group of independently operating group of services;
- (2) Where, although the Department delivers few direct services, a client needing multiple services can have them delivered in a coordinated manner through local governing entities and by local service providers;
- (3) Where counties have the opportunity, where practicable, to develop approaches to service delivery that work best for them;
- (4) Where the Department can restructure around functions rather than programs; and
- (5) Where the Department can develop an internal management capacity for strategic planning, program planning and evaluation,

and formal senior management reviews, on a regular basis, of client needs, program performance, and issues related to resource allocation and risk assessment.

(c) The Department of Health and Human Services shall give very strong consideration to establishing the following service delivery functions: services, regulation, institutional management, education, and health care financing.

(d) The Department of Human Resources shall give very strong consideration to establishing the following coordination and infrastructure functions: information services and performance services.

Requested by: Senator Odom, Representative Clary

MEDICAL RECORDS COPY FEES/SOCIAL SECURITY DISABILITY CLAIMS

Section 11.3. G.S. 90-411 reads as rewritten:

"§ 90-411. *Record copy fee.*

A health care provider may charge a reasonable fee to cover the costs incurred in searching, handling, copying, and mailing medical records to the patient or the patient's designated representative. The maximum fee for each request shall be fifty seventy-five cents (50) (75¢) per page, page for the first 25 pages, fifty cents (50¢) per page for pages 26 through 100, and twenty-five cents (25¢) for each page in excess of 100 pages, provided that the health care provider may impose a minimum fee of up to ten dollars (\$10.00), inclusive of copying costs. If requested by the patient or the patient's designated representative, nothing herein shall limit a reasonable professional fee charged by a physician for the review and preparation of a narrative summary of the patient's medical record. This section shall only apply with respect to liability claims for personal injury, and claims for social security disability, except that charges for medical records and reports related to claims under Article 1 of Chapter 97 of the General Statutes shall be governed by the fees established by the North Carolina Industrial Commission pursuant to G.S. 97-26.1. This section shall not apply to Department of Human Resources Disability Determination Services requests for copies of medical records made on behalf of an applicant for Social Security or Supplemental Security Income disability."

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

RECEIPTS OF FEDERAL FUNDS FOR EMERGENCY ASSISTANCE

Section 11.4. The Department of Human Resources may use up to twenty-five percent (25%) of federal Title IV-Emergency Assistance funds, received after June 30, 1997, as reimbursement for retroactive claims filed for defined critical needs. The remainder of these funds shall be placed in a reserve for appropriation by the General Assembly. The Department may submit a prioritized list of recommended needs for these funds to the cochairs of the Senate and House Appropriations Subcommittees on Human Resources for consideration.

Requested by: Senators Martin of Guilford, Perdue, Representative Cansler

STANDARDS FOR HEALTH CARE QUALITY AND ACCESS/STATE CHILDREN'S HEALTH INSURANCE PROGRAM

Section 11.5. (a) The Secretary of the Department of Human Resources shall prepare proposed standards to ensure that the citizens of the State have access to quality and affordable health care with special emphasis on health care for children. The proposed standards shall be presented to the General Assembly on or before April 1, 1998.

(b) The Department of Human Resources shall develop a State plan for the establishment of a State Children's Health Insurance Program that would qualify for federal funds to expand the availability of health care to uninsured, low-income children. In developing the State plan, the Department shall consider not only the expansion of health benefits coverage for eligible children under the State Medicaid program, but also options for providing health care services and coverage through or in coordination with private and other public sector health care benefits and services programs. The Department shall report its progress in developing the State plan to the 1997 General Assembly, Regular Session 1998, upon its convening. The report shall include the following:

- (1) Identification of potential sources of State matching funds for the Program;
- (2) Recommendations for implementation of the State Children's Health Insurance Program, including performance goals and measures;
- (3) An estimate of the fiscal impact of the Program on the State budget over the next five years; and
- (4) Any other information and recommendations the Secretary of Human Resources deems relevant to the General Assembly's review and approval of the State plan.

The Department shall not submit its State plan or application for federal funds for the implementation of the State Children's Health Insurance Program without specific approval of the General Assembly. The Department shall not expend or obligate State funds not specifically appropriated for the purpose of implementing the State Children's Health Insurance Program, without the specific approval of the General Assembly.

Requested by: Senators Plyler, Perdue, Odom

PROCEDURE FOR AWARD OF HUMAN SERVICES GRANTS

Section 11.6. Of the funds appropriated in this act to the Department of Human Resources, the sum of four million dollars (\$4,000,000) for the 1997-98 fiscal year shall be used for grants for programs that provide services to older adults, adults with disabilities, at-risk children, and youth and families. The Secretary of the Department of Human Resources shall establish a process for the review, evaluation, and consideration of applications for these grants.

In awarding grants, the Secretary shall consider the merits of the program, the benefit to the State and local communities of the program, and the cost of the program. Prior to awarding grants, the Secretary shall consult with the Joint Legislative Commission on Governmental Operations.

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

DHR STUDY OF PROVIDER REIMBURSEMENT RATES/REPORT

Section 11.7. The Department of Human Resources shall study the process of setting provider reimbursement rates for programs within the Department. This study shall include an analysis of the following:

- (1) The extent to which rates are set in accordance with clear policies that are consistent across program lines;
- (2) Whether there are general principles and assumptions that are or should be included in all rate-setting processes;
- (3) The policies and economic and accounting principles that are utilized for setting rates in each program and a comparison of those policies and principles between the programs; and
- (4) How any differences between programs in setting rates are justified.

The Department shall provide a status report before February 1, 1998, and a final report to the members of the House and Senate Appropriations Subcommittees on Human Resources and the Fiscal Research Division before February 1, 1999.

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

TRANSFER OF CERTAIN FUNDS AUTHORIZED

Section 11.8. In order to assure maximum utilization of funds in county departments of social services, county or district health agencies, and area mental health, developmental disabilities, and substance abuse services authorities, the Director of the Budget may transfer excess funds appropriated to a specific service, program, or fund, whether specified service in a block grant plan or General Fund appropriation, into another service, program, or fund for local services within the budget of the respective State agency.

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

MEDICAID TRUST FUND TRANSFER/SHORTFALL

Section 11.9. Upon certification to the Director of the Budget that all medical assistance program funds are expended and receipt of approval by the Director of the Budget, notwithstanding any prohibition which may exist in G.S. 143-23.2, the Department may use up to twenty million dollars (\$20,000,000) during fiscal year 1997-98 from the fund established pursuant to G.S. 143-23.2 to support Medicaid program expenditures.

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

MEDICAID GROWTH REDUCTION

Section 11.10. (a) The Department of Human Resources shall develop and implement a plan that is designed to reduce the growth of Medicaid to eight percent (8%) by the year 2001. However, the Department shall not eliminate categories of eligibles or categories of services to achieve this

reduction unless the General Assembly identifies specific categories of eligibles or categories of services that it wants eliminated.

(b) The Division of Medical Assistance, Department of Human Resources, shall consider the following actions in developing the plan to reduce Medicaid growth:

- (1) Changes in the methods of reimbursement;
- (2) Changes in the method of determining or limiting inflation factors or both;
- (3) Recalibration of existing methods of reimbursement;
- (4) Develop more specific criteria for determining medical necessity of services;
- (5) Contracting for services;
- (6) Application of limits on specific numbers of slots or expenditure levels for certain services or both;
- (7) Expansion of managed care; and
- (8) Recommend changes in statutes to enhance the ability of the Department to manage the program.

(c) In considering the actions listed in subsection (b) of this section and in the development of the Medicaid growth reduction plan, the Division of Medical Assistance, Department of Human Resources, shall not adjust reimbursement rates to levels which would cause Medicaid providers of service to be out of compliance with certification requirements, licensure rules, or other mandated quality or safety standards.

(d) The Division of Medical Assistance, Department of Human Resources, may make periodic progress reports to the Chairs of the House and Senate Appropriations Subcommittees on Human Resources and shall make a final report no later than September 1, 1997, on any actions the Department intends to take to meet the required reductions for 1998-99. The Division of Medical Assistance shall not implement any of these actions until after the intended actions have been reported to the Chairs.

(e) The Division of Medical Assistance, Department of Human Resources, shall report to the Chairs of the House and Senate Appropriations Subcommittees on Human Resources by April 1, 1998, on the final plan to reduce Medicaid growth to eight percent (8%) by the year 2001.

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

MEDICAID

Section 11.11. (a) Funds appropriated in this act for services provided in accordance with Title XIX of the Social Security Act (Medicaid) are for both the categorically needy and the medically needy. Funds appropriated for these services shall be expended in accordance with the following schedule of services and payment bases. All services and payments are subject to the language at the end of this subsection.

Services and payment bases:

- (1) Hospital-Inpatient - Payment for hospital inpatient services will be prescribed in the State Plan as established by the Department of

Human Resources. Administrative days for any period of hospitalization shall be limited to a maximum of three days.

- (2) Hospital-Outpatient - Eighty percent (80%) of allowable costs or a prospective reimbursement plan as established by the Department of Human Resources.
- (3) Nursing Facilities - Payment for nursing facility services will be prescribed in the State Plan as established by the Department of Human Resources. Nursing facilities providing services to Medicaid recipients who also qualify for Medicare, must be enrolled in the Medicare program as a condition of participation in the Medicaid program. State facilities are not subject to the requirement to enroll in the Medicare program.
- (4) Intermediate Care Facilities for the Mentally Retarded - As prescribed in the State Plan as established by the Department of Human Resources.
- (5) Drugs - Drug costs as allowed by federal regulations plus a professional services fee per month excluding refills for the same drug or generic equivalent during the same month. Reimbursement shall be available for up to six prescriptions per recipient, per month, including refills. Payments for drugs are subject to the provisions of subsection (h) of this section and to the provisions at the end of subsection (a) of this section, or in accordance with the State Plan adopted by the Department of Human Resources consistent with federal reimbursement regulations. Payment of the professional services fee shall be made in accordance with the State Plan adopted by the Department of Human Resources, consistent with federal reimbursement regulations. The professional services fee shall be five dollars and sixty cents (\$5.60) per prescription. Adjustments to the professional services fee shall be established by the General Assembly.
- (6) Physicians, Chiropractors, Podiatrists, Optometrists, Dentists, Certified Nurse Midwife Services - Fee schedules as developed by the Department of Human Resources. Payments for dental services are subject to the provisions of subsection (g) of this section.
- (7) Community Alternative Program, EPSDT Screens - Payment to be made in accordance with rate schedule developed by the Department of Human Resources.
- (8) Home Health and Related Services, Private Duty Nursing, Clinic Services, Prepaid Health Plans, Durable Medical Equipment - Payment to be made according to reimbursement plans developed by the Department of Human Resources.
- (9) Medicare Buy-In - Social Security Administration premium.
- (10) Ambulance Services - Uniform fee schedules as developed by the Department of Human Resources.
- (11) Hearing Aids - Actual cost plus a dispensing fee.

- (12) Rural Health Clinic Services - Provider-based, reasonable cost; nonprovider-based, single-cost reimbursement rate per clinic visit.
- (13) Family Planning - Negotiated rate for local health departments. For other providers - see specific services, for instance, hospitals, physicians.
- (14) Independent Laboratory and X-Ray Services - Uniform fee schedules as developed by the Department of Human Resources.
- (15) Optical Supplies - One hundred percent (100%) of reasonable wholesale cost of materials.
- (16) Ambulatory Surgical Centers - Payment as prescribed in the reimbursement plan established by the Department of Human Resources.
- (17) Medicare Crossover Claims - An amount up to the actual coinsurance or deductible or both, in accordance with the State Plan, as approved by the Department of Human Resources.
- (18) Physical Therapy and Speech Therapy - Services limited to EPSDT eligible children. Payments are to be made only to qualified providers at rates negotiated by the Department of Human Resources.
- (19) Personal Care Services - Payment in accordance with the State Plan approved by the Department of Human Resources.
- (20) Case Management Services - Reimbursement in accordance with the availability of funds to be transferred within the Department of Human Resources.
- (21) Hospice - Services may be provided in accordance with the State Plan developed by the Department of Human Resources.
- (22) Other Mental Health Services - Unless otherwise covered by this section, coverage is limited to agencies meeting the requirements of the rules established by the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services, and reimbursement is made in accordance with a State Plan developed by the Department of Human Resources not to exceed the upper limits established in federal regulations.
- (23) Medically Necessary Prosthetics or Orthotics for EPSDT Eligible Children - Reimbursement in accordance with the State Plan approved by the Department of Human Resources.
- (24) Health Insurance Premiums - Payments to be made in accordance with the State Plan adopted by the Department of Human Resources consistent with federal regulations.
- (25) Medical Care/Other Remedial Care - Services not covered elsewhere in this section include related services in schools; health professional services provided outside the clinic setting to meet maternal and infant health goals; and services to meet federal EPSDT mandates. Services addressed by this paragraph are limited to those prescribed in the State Plan as established by the Department of Human Resources. Providers of these services shall be certified as meeting program standards of the Department of Environment, Health, and Natural Resources.

- (26) **Pregnancy Related Services** - Covered services for pregnant women shall include nutritional counseling, psychosocial counseling, and predelivery and postpartum home visits by maternity care coordinators and public health nurses.

Services and payment bases may be changed with the approval of the Director of the Budget.

Reimbursement is available for up to 24 visits per recipient per year to any one or combination of the following: physicians, clinics, hospital outpatient, optometrists, chiropractors, and podiatrists. Prenatal services, all EPSDT children, and emergency rooms are exempt from the visit limitations contained in this paragraph. Exceptions may be authorized by the Department of Human Resources where the life of the patient would be threatened without such additional care. Any person who is determined by the Department to be exempt from the 24-visit limitation may also be exempt from the six-prescription limitation.

(b) **Allocation of Nonfederal Cost of Medicaid.** The State shall pay eighty-five percent (85%); the county shall pay fifteen percent (15%) of the nonfederal costs of all applicable services listed in this section.

(c) **Copayment for Medicaid Services.** The Department of Human Resources may establish copayment up to the maximum permitted by federal law and regulation.

(d) **Medicaid and Aid to Families With Dependent Children Income Eligibility Standards.** The maximum net family annual income eligibility standards for Medicaid and Aid to Families with Dependent Children, and the Standard of Need for Aid to Families with Dependent Children shall be as follows:

<u>Family Size</u>	<u>Categorically Needy Standard of Need</u>	<u>Medically Needy</u>	
		<u>AFDC Payment Level*</u>	<u>AA, AB, AD*</u>
1	\$ 4,344	\$ 2,172	\$ 2,900
2	5,664	2,832	3,800
3	6,528	3,264	4,400
4	7,128	3,564	4,800
5	7,776	3,888	5,200
6	8,376	4,188	5,600
7	8,952	4,476	6,000
8	9,256	4,680	6,300

*Aid to Families With Dependent Children (AFDC); Aid to the Aged (AA); Aid to the Blind (AB); and Aid to the Disabled (AD).

The payment level for Aid to Families With Dependent Children shall be fifty percent (50%) of the standard of need.

These standards may be changed with the approval of the Director of the Budget with the advice of the Advisory Budget Commission.

(e) All Elderly, Blind, and Disabled Persons who receive Supplemental Security Income are eligible for Medicaid coverage.

(f) ICF and ICF/MR Work Incentive Allowances. The Department of Human Resources may provide an incentive allowance to Medicaid-eligible recipients of ICF and ICF/MR facilities who are regularly engaged in work activities as part of their developmental plan and for whom retention of additional income contributes to their achievement of independence. The State funds required to match the federal funds that are required by these allowances shall be provided from savings within the Medicaid budget or from other unbudgeted funds available to the Department. The incentive allowances may be as follows:

<u>Monthly Net Wages</u>	<u>Monthly Incentive Allowance</u>
\$1.00 to \$100.99	Up to \$50.00
\$101.00 - \$200.99	\$80.00
\$201.00 to \$300.99	\$130.00
\$301.00 and greater	\$212.00.

(g) Dental Coverage Limits. Dental services shall be provided on a restricted basis in accordance with rules adopted by the Department to implement this subsection.

(h) Dispensing of Generic Drugs. Notwithstanding G.S. 90-85.27 through G.S. 90-85.31, under the Medical Assistance Program (Title XIX of the Social Security Act) a prescription order for a drug designated by a trade or brand name shall be considered to be an order for the drug by its established or generic name, except when the prescriber personally indicates, either orally or in the prescriber's own handwriting on the prescription order, "dispense as written" or words of similar meaning. Generic drugs, when available in the pharmacy, shall be dispensed at a lower cost to the Medical Assistance Program rather than trade or brand name drugs, subject to the prescriber's "dispense as written" order as noted above.

As used in this subsection "brand name" means the proprietary name the manufacturer places upon a drug product or on its container, label, or wrapping at the time of packaging; and "established name" has the same meaning as in section 502(e)(3) of the Federal Food, Drug, and Cosmetic Act as amended, 21 U.S.C. § 352(e)(3).

(i) Exceptions to Service Limitations, Eligibility Requirements, and Payments. Service limitations, eligibility requirements, and payments bases in this section may be waived by the Department of Human Resources, with the approval of the Director of the Budget, to allow the Department to carry out pilot programs for prepaid health plans, managed care plans, or community-based services programs in accordance with plans approved by the United States Department of Health and Human Services, or when the Department determines that such a waiver will result in a reduction in the total Medicaid costs for the recipient.

(j) Volume Purchase Plans and Single Source Procurement. The Department of Human Resources, Division of Medical Assistance, may, subject to the approval of a change in the State Medicaid Plan, contract for services, medical equipment, supplies, and appliances by implementation of

volume purchase plans, single source procurement, or other similar processes in order to improve cost containment.

(k) **Cost Containment Programs.** The Department of Human Resources, Division of Medical Assistance, may undertake cost containment programs including preadmissions to hospitals and prior approval for certain outpatient surgeries before they may be performed in an inpatient setting.

(l) For all Medicaid eligibility classifications for which the federal poverty level is used as an income limit for eligibility determination, the income limits will be updated each April 1 immediately following publication of federal poverty guidelines.

(m) The Department of Human Resources shall provide Medicaid to 19-, 20-, and 21-year olds in accordance with federal rules and regulations.

(n) The Department of Human Resources shall provide coverage to pregnant women and to children according to the following schedule:

- (1) Pregnant women with incomes equal to or less than one hundred eighty-five percent (185%) of the federal poverty guidelines as revised each April 1 shall be covered for Medicaid benefits.
- (2) Infants under the age of 1 with family incomes equal to or less than one hundred eighty-five percent (185%) of the federal poverty guidelines as revised each April 1 shall be covered for Medicaid benefits.
- (3) Children aged 1 through 5 with family incomes equal to or less than one hundred thirty-three percent (133%) of the federal poverty guidelines as revised each April 1 shall be covered for Medicaid benefits.
- (4) Children aged 6 through 18 with family incomes equal to or less than the federal poverty guidelines as revised each April 1 shall be covered for Medicaid benefits.
- (5) The Department of Human Resources shall provide Medicaid coverage for adoptive children with special or rehabilitative needs regardless of the adoptive family's income.

Services to pregnant women eligible under this subsection continue throughout the pregnancy but include only those related to pregnancy and to those other conditions determined by the Department as conditions that may complicate pregnancy. In order to reduce county administrative costs and to expedite the provision of medical services to pregnant women, to infants, and to children described in subdivisions (3) and (4) of this subsection, no resources test shall be applied.

(o) The Department of Human Resources may use Medicaid funds budgeted from program services to support the cost of administrative activities to the extent that these administrative activities produce a net savings in services requirements. Administrative initiatives funded by this section shall be first approved by the Office of State Budget and Management.

(p) The Department of Human Resources shall submit a monthly status report on expenditures for acute care and long-term care services to the Fiscal Research Division and to the Office of State Budget and Management. This report shall include an analysis of budgeted versus actual expenditures for eligibles by category and for long-term care beds. In

addition, the Department shall revise the program's projected spending for the current fiscal year and the estimated spending for the subsequent fiscal year on a quarterly basis. Reports for the preceding month shall be forwarded to the Fiscal Research Division and to the Office of State Budget and Management no later than the third Thursday of the month.

(q) The Division of Medical Assistance, Department of Human Resources, may provide incentives to counties that successfully recover fraudulently spent Medicaid funds by sharing State savings with counties responsible for the recovery of the fraudulently spent funds.

(r) If first approved by the Office of State Budget and Management, the Division of Medical Assistance, Department of Human Resources, may use funds that are identified to support the cost of development and acquisition of equipment and software through contractual means to improve and enhance information systems that provide management information and claims processing.

(s) The Division of Medical Assistance, Department of Human Resources, may administer Medicaid estate recovery mandated by the Omnibus Budget Reconciliation Act of 1993, (OBRA 1993), 42 U.S.C. § 1396p(b), and G.S. 108-70.5 using temporary rules pending approval of final rules promulgated pursuant to Chapter 150B of the General Statutes.

(t) The Department of Human Resources may adopt temporary rules according to the procedures established in G.S. 150B-21.1 when it finds that such rules are necessary to maximize receipt of federal funds, to reduce Medicaid expenditures, and to reduce fraud and abuse. Prior to the filing of these temporary rules with the Office of Administrative Hearings, the Department shall consult with the Office of State Budget and Management on the possible fiscal impact of the temporary rule and its effect on State appropriations and local governments.

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

NONMEDICAID REIMBURSEMENT CHANGES

Section 11.12. Providers of medical services under the various State programs, other than Medicaid, offering medical care to citizens of the State shall be reimbursed at rates no more than those under the North Carolina Medical Assistance Program. Hospitals that provide psychiatric inpatient care for Thomas S. class members or adults with mental retardation and mental illness may be paid an additional incentive payment not to exceed fifteen percent (15%) of their regular daily per diem reimbursement.

The Department of Human Resources may reimburse hospitals at the full prospective per diem rates without regard to the Medical Assistance Program's annual limits on hospital days. When the Medical Assistance Program's per diem rates for inpatient services and its interim rates for outpatient services are used to reimburse providers in non-Medicaid medical service programs, retroactive adjustments to claims already paid shall not be required.

Notwithstanding the provisions of paragraph one, the Department of Human Resources may negotiate with providers of medical services under the various Department of Human Resources programs, other than

Medicaid, for rates as close as possible to Medicaid rates for the following purposes: contracts or agreements for medical services and purchases of medical equipment and other medical supplies. These negotiated rates are allowable only to meet the medical needs of its non-Medicaid eligible patients, residents, and clients who require such services which cannot be provided when limited to the Medicaid rate.

Maximum net family annual income eligibility standards for services in these programs shall be as follows:

<u>Family Size</u>	<u>Medical Eye Care Adults</u>	<u>All Rehabilitation</u>	<u>Other</u>
1	\$ 4,860	\$ 8,364	\$ 4,200
2	5,940	10,944	5,300
3	6,204	13,500	6,400
4	7,284	16,092	7,500
5	7,824	18,648	7,900
6	8,220	21,228	8,300
7	8,772	21,708	8,800
8	9,312	22,220	9,300

The eligibility level for children in the Medical Eye Care Program in the Division of Services for the Blind and for adults in the Atypical Antipsychotic Medication Program in the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services shall be one hundred percent (100%) of the federal poverty guidelines, as revised annually by the United States Department of Health and Human Services and in effect on July 1 of each fiscal year. Additionally, those adults enrolled in the Atypical Antipsychotic Medication Program who become gainfully employed may continue to be eligible to receive State support, in decreasing amounts, for the purchase of atypical antipsychotic medication and related services up to three hundred percent (300%) of the poverty level.

State financial participation in the Atypical Antipsychotic Medication Program for those enrollees who become gainfully employed is as follows:

<u>Income (% of poverty)</u>	<u>State Participation</u>	<u>Client Participation</u>
0-100%	100%	0%
101-120%	95%	5%
121-140%	85%	15%
141-160%	75%	25%
161-180%	65%	35%
181-200%	55%	45%
201-220%	45%	55%
221-240%	35%	65%
241-260%	25%	75%
261-280%	15%	85%
281-300%	5%	95%
301%-over	0%	100%.

The Department of Human Resources shall contract at, or as close as possible to, Medicaid rates for medical services provided to residents of State facilities of the Department.

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

DHR EMPLOYEES/IN-KIND MATCH

Section 11.13. Notwithstanding the limitations of G.S. 143B-139.4, the Secretary of the Department of Human Resources may assign employees of the Office of Rural Health and Resource Development to serve as in-kind match to nonprofit corporations working to establish health care programs that will improve health care access while controlling costs.

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

FIRE PROTECTION REVOLVING LOAN FUND

Section 11.14. Proceeds from the Fire Protection Revolving Loan Fund, established pursuant to G.S. 122A-5.13, may be used to provide staff support to the North Carolina Housing Finance Agency for loan processing and to the Department of Human Resources for review and approval of fire protection plans and inspection of fire protection systems.

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

MEDICAL DATA PROCESSING FUNDS

Section 11.15. The sum of one hundred fifty thousand dollars (\$150,000) for each of the 1997-98 and 1998-99 fiscal years is transferred from the Insurance Regulatory Fund established pursuant to G.S. 58-6-25 to the Division of Facility Services, Department of Human Resources, to certify statewide data processors pursuant to Article 11A of Chapter 131E of the General Statutes, to purchase data from statewide data processors, and to process and analyze the data.

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

SENIOR CENTER OUTREACH

Section 11.16. (a) Funds appropriated to the Department of Human Resources, Division of Aging, for the 1997-99 fiscal biennium, shall be used by the Division of Aging to enhance senior center programs as follows:

- (1) To test "satellite" services provided by existing senior centers to unserved or underserved areas; or
- (2) To provide start-up funds for new senior centers.

All of these funds shall be allocated by October 1 of each fiscal year.

(b) Prior to funds being allocated pursuant to this section for start-up funds for a new senior center, the county commissioners of the county in which the new center will be located shall:

- (1) Formally endorse the need for a center;
- (2) Formally agree on the sponsoring agency for the center; and

(3) Make a formal commitment to use local funds to support the ongoing operation of the center.

(c) State funding shall not exceed ninety percent (90%) of reimbursable costs.

Requested by: Representatives Gardner, Cansler, Clary, Senators Perdue, Martin of Guilford

SENIOR CENTER FUNDS

Section 11.17. Of the funds appropriated in this act to the Department of Human Resources, the sum of one million dollars (\$1,000,000) for the 1997-98 fiscal year shall be used to support existing senior centers and to assist in the development of new senior centers. The Department shall allocate funds equally among senior centers throughout the State as determined by the Division of Aging. Expenditures of State funds for senior centers shall not exceed ninety percent (90%) of all funds expended for this purpose.

Requested by: Representatives Gardner, Cansler, Clary, Senator Martin of Guilford

IN-HOME AND CAREGIVER SUPPORT FUNDS

Section 11.18. Of the funds appropriated in this act to the Department of Human Resources, Division of Aging, the sum of five million dollars (\$5,000,000) for the 1997-98 fiscal year and the sum of five million dollars (\$5,000,000) for the 1998-99 fiscal year shall be allocated via the Home and Community Care Block Grant for home and community care services for older persons who are not eligible for Medicaid and who are on the waiting list for these services. These funds shall be used only for direct services. Service recipients shall pay for services based on their income in accordance with G.S. 143B-181.1(a)(10).

Requested by: Representatives Gardner, Cansler, Clary

SURROGATE CONSENT FOR HEALTH CARE/STUDY

Section 11.19. (a) The North Carolina Study Commission on Aging, as established under G.S. 120-180, shall study and recommend a procedure for determining which person or persons may make health care decisions for adult individuals in nursing homes and other health care facilities who lack sufficient understanding or capacity to make or communicate health care decisions for themselves and for whom there is no authorized health care agent, guardian of the person, or attorney-in-fact to make the decision. The Commission shall ensure that the procedure recommended operates consistently with existing law, including living wills, health care powers of attorney, and durable powers of attorney. In conducting the study, the Commission may consider the provisions of House Bill 1112, first edition, 1997 General Assembly.

(b) The Commission shall report its findings and recommendations to the 1997 General Assembly, Regular Session 1998, upon its convening.

Requested by: Representatives Gardner, Cansler, Clary

COMMISSION ON AGING STUDY OF ADULT CARE HOME MONITORING

Section 11.20. The North Carolina Study Commission on Aging shall study the effectiveness and efficiency of State and county monitoring and regulation of adult care homes. The Commission shall report its findings and recommendations to the 1997 General Assembly, Regular Session 1998, upon its convening.

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

ADULT CARE HOMES REPORT

Section 11.21. Beginning October 1, 1997, the Department of Health and Human Services shall report annually, on the previous fiscal year's activities, to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division of the Legislative Services Office as to the status of the following:

- (1) Rate-setting and financing of adult care homes, including the use of Medicaid funds for personal care services;
- (2) Quality assurance and enhancement of adult care homes, including case management for residents with special care needs, monitoring of adult care home facilities, and specialized training of direct care staff; and
- (3) The process of the evaluation of the Adult Care Home Financing and Quality Assurance Program.

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

FOSTER CARE ASSISTANCE PAYMENTS

Section 11.22. The maximum rates for State participation in the foster care assistance program are established on a graduated scale as follows:

- (1) \$315.00 per child per month for children aged birth through 5;
- (2) \$365.00 per child per month for children aged 6 through 12; and
- (3) \$415.00 per child per month for children aged 13 through 18.

Of these amounts, fifteen dollars (\$15.00) is a special needs allowance for the child.

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

AUTHORIZED ADDITIONAL USE OF HIV FOSTER CARE AND ADOPTIVE FAMILY FUNDS

Section 11.23. (a) In addition to providing board payments to foster and adoptive families of HIV-infected children, as prescribed in Chapter 324 of the 1995 Session Laws, any additional funds remaining that were appropriated in Chapter 324 of the 1995 Session Laws for this purpose shall be used as follows:

- (1) To provide medical training in avoiding HIV transmission in the home; and
- (2) To transfer funds to the Department of Environment, Health, and Natural Resources to create three social work positions within the

Department of Environment, Health, and Natural Resources, for the eastern part of North Carolina to enable the case managing of families with HIV-infected children so that the children and the parents get access to medical care and so that child protective services issues are addressed rapidly and effectively. The three positions shall be medically based and located:

- a. One in the northeast, covering Northampton, Hertford, Halifax, Gates, Chowan, Perquimans, Pasquotank, Camden, Currituck, Bertie, Wilson, Edgecombe, and Nash Counties;
- b. One in the central east, covering Martin, Pitt, Washington, Tyrrell, Dare, Hyde, Beaufort, Jones, Greene, Craven, and Pamlico Counties; and
- c. One in the southeast, covering New Hanover, Robeson, Brunswick, Carteret, Onslow, Lenoir, Pender, Duplin, Bladen, and Columbus Counties.

(b) The maximum rates for State participation in HIV foster care and adoption assistance are established on a graduated scale as follows:

- (1) \$800.00 per month per child with indeterminate HIV status;
- (2) \$1,000 per month per child confirmed HIV-infected, asymptomatic;
- (3) \$1,200 per month per child confirmed HIV-infected, symptomatic; and
- (4) \$1,600 per month per child terminally ill with complex care needs.

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

ADOPTION ASSISTANCE PAYMENTS

Section 11.24. The maximum rates for State participation in the adoption assistance program are established on a graduated scale as follows:

- (1) \$315.00 per child per month for children aged birth through 5;
- (2) \$365.00 per child per month for children aged 6 through 12; and
- (3) \$415.00 per child per month for children aged 13 through 18.

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

CHILD PROTECTIVE SERVICES

Section 11.25. (a) The funds appropriated in this act to the Department of Human Resources, Division of Social Services, for the 1997-99 fiscal biennium for Child Protective Services shall be allocated to county departments of social services based upon a formula which takes into consideration the number of Child Protective Services cases and the number of Child Protective Services workers necessary to meet recommended standards adopted by the North Carolina Association of County Directors of Social Services.

(b) Funds allocated under subsection (a) of this section shall be used by county departments of social services for carrying out investigations of reports of child abuse or neglect or for providing protective or preventive services in which the department confirms abuse, neglect, or dependency.

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary
FOOD STAMP ELECTRONIC BENEFITS TRANSFER FUNDS SPECIFICATIONS

Section 11.26. The Controller's Office, Department of Human Resources, shall manage the development, implementation, and operation of the Food Stamp Electronic Benefits Transfer Program (EBT).

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary
ANNUAL REPORT ON CARING PROGRAM FOR CHILDREN, INC.

Section 11.27. The Caring Program for Children, Inc., shall report annually by May 1 to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division of the Legislative Services Office, beginning with May 1, 1998, on its program for providing health care for children.

This report shall include the number of children served and the cost per child served.

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary
REVIEW OF AUTOMATED COLLECTION AND TRACKING SYSTEM

Section 11.28. The Information Resource Management Commission shall conduct a quarterly review of the Automated Collection and Tracking System (ACTS) project being developed by the Department of Human Resources. The review shall include an analysis of the problems encountered and progress achieved, identify critical issues to be resolved, and estimate the final cost and date of completion. The review shall be submitted through the Office of the State Controller to the Chairs of the House and Senate Appropriations Committees, the Chairs of the House and Senate Human Resources Appropriations Subcommittees, the State Budget Director, and to the Director of the Fiscal Research Division of the Legislative Services Office no later than the last day of each quarter.

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary
MIXED BEVERAGE TAX FOR AREA MENTAL HEALTH PROGRAMS

Section 11.29. Funds received by the Department of Human Resources from the tax levied on mixed beverages under G.S. 18B-804(b)(8) shall be expended by the Department of Human Resources as prescribed by G.S. 18B-805(h). These funds shall be allocated to the area mental health programs for substance abuse services.

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary
PHYSICIAN SERVICES

Section 11.30. With the approval of the Office of State Budget and Management, the Department of Human Resources may use funds appropriated in this act for across-the-board salary increases and

performance pay to offset similar increases in the costs of contracting with private and independent universities for the provision of physician services to clients in facilities operated by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services. This offsetting shall be done in the same manner as is currently done with constituent institutions of The University of North Carolina.

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

CLINICAL SOCIAL WORKER EXEMPTION

Section 11.31. Section 8 of Chapter 732 of the 1991 Session Laws reads as rewritten:

"Sec. 8. This act becomes effective January 1, 1992. G.S. 90B-10(b)(3)a. is repealed effective January 1, ~~1997~~ 1999. The term of the additional Board position for clinical social worker created by this act shall commence upon the expiration of the term of the public member whose term expires first."

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

LIABILITY INSURANCE

Section 11.32. The Secretary of the Department of Human Resources, the Secretary of the Department of Environment, Health, and Natural Resources, and the Secretary of the Department of Correction may provide medical liability coverage not to exceed one million dollars (\$1,000,000) per incident on behalf of employees of the Departments licensed to practice medicine or dentistry, all licensed physicians who are faculty members of The University of North Carolina who work on contract for the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services for incidents that occur in Division programs, and on behalf of physicians in all residency training programs from The University of North Carolina who are in training at institutions operated by the Department of Human Resources. This coverage may include commercial insurance or self-insurance and shall cover these individuals for their acts or omissions only while they are engaged in providing medical and dental services pursuant to their State employment or training.

The coverage provided under this section shall not cover any individual for any act or omission that the individual knows or reasonably should know constitutes a violation of the applicable criminal laws of any state or the United States, or that arises out of any sexual, fraudulent, criminal, or malicious act, or out of any act amounting to willful or wanton negligence.

The coverage provided pursuant to this section shall not require any additional appropriations and shall not apply to any individual providing contractual service to the Department of Human Resources, the Department of Environment, Health, and Natural Resources, or the Department of Correction, with the exception that coverage may include physicians in all residency training programs from The University of North Carolina who are in training at institutions operated by the Department of Human Resources and licensed physicians who are faculty members of The University of North

Carolina who work for the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

PRIVATE AGENCY UNIFORM COST FINDING REQUIREMENT

Section 11.33. To ensure uniformity in rates charged to area programs and funded with State-allocated resources, the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services of the Department of Human Resources may require a private agency that provides services under contract with two or more area programs, except for hospital services that have an established Medicaid rate, to complete an agencywide uniform cost finding in accordance with G.S. 122C-143.2(a) and G.S. 122C-147.2. The resulting cost shall be the maximum included for the private agency in the contracting area program's unit cost finding.

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

CAROLINA ALTERNATIVES

Section 11.34. The Department of Human Resources shall move forward with planning, readiness assessments, and other necessary activities to be able to expand the Carolina Alternatives Child and Adult Waiver Pilot Program. Prior to actual implementation of additional covered populations, the Department shall:

- (1) Receive approval from the Health Care Financing Administration;
- (2) Continue the 10-site Carolina Alternatives pilot programs;
- (3) Make a determination that each area authority that is going to participate in the pilot has the capacity to implement the waiver;
- (4) Obtain certification from the Office of State Budget and Management that expansion of Carolina Alternatives is budget neutral, excluding the payment of claims related to the transition from fee-for-service to Medicaid managed care, and authorization from the Office of State Budget and Management to proceed with the pilot;
- (5) Evaluate capitation rates to determine if they are adequate to provide appropriate services;
- (6) Develop five-year cost estimates for Carolina Alternatives; and
- (7) Submit a progress report to the 1997 General Assembly, Regular Session 1998, and the Fiscal Research Division not later than May 1, 1998.

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

WILLIE M.

Section 11.35. (a) Legislative Findings. -- The General Assembly finds:

- (1) That there is a need in North Carolina to provide appropriate treatment and education programs to children under the age of 18

who suffer from emotional, mental, or neurological handicaps accompanied by violent or assaultive behavior;

- (2) That children meeting these criteria have been identified as a Class in the case of *Willie M., et al. v. Hunt, et al.*, formerly *Willie M., et al. v. Martin, et al.* [Willie M., 3:79 CV 294-MU (Western District)]; and as defined in G.S. 122C-3(13a) as Eligible Assaultive and Violent Children]; and
- (3) That these children have a need for a variety of services, in addition to those normally provided, that may include, but are not limited to, residential treatment services, educational services, and independent living arrangements.

(b) Funds appropriated by the General Assembly to the Department of Human Resources for serving members of the Willie M. Class shall be expended only for programs serving members of the Willie M. Class identified in *Willie M., et al. v. Hunt, et al.*, formerly *Willie M., et al. v. Martin, et al.*, [or as Eligible Assaultive and Violent Children] including evaluations of potential Class members. The Department shall reallocate these funds among services to Willie M. Class members during the year as it deems advisable in order to use the funds efficiently in providing appropriate services to Willie M. Class members.

(c) Funds for Department of Public Education. -- Funds appropriated to the Department of Public Education in this act for members of the Willie M. Class are to establish a supplemental reserve fund to serve only members of the Class identified in *Willie M., et al. v. Hunt, et al.*, formerly *Willie M., et al. v. Martin, et al.*, [or as Eligible Assaultive and Violent Children]. These funds shall be allocated by the State Board of Education to the local education agencies to serve those Class members who were not included in the regular average daily membership and the census of children with special needs, and to provide the additional program costs which exceed the per pupil allocation from the State Public School Fund and other State and federal funds for children with special needs.

(d) The Department of Human Resources shall continue to implement its prospective unit cost reimbursement system and shall ensure that unit cost rates reflect reasonable costs by conducting cost center service type rate comparisons and cost centerline item budget reviews as may be necessary, and based upon these reviews and comparisons, the Department shall reduce and/or cap rates to programs which are significantly higher than those rates paid to other programs for the same service.

Any exception to this requirement shall be approved by the Director of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, and shall be reported in the Department's annual joint report to the Governor and the General Assembly and in any periodic report the Department may make to the Joint Legislative Commission on Governmental Operations.

(d1) The Department of Human Resources shall implement a process to review those cases for whom treatment has been recommended whose annual cost is anticipated to be in excess of one hundred fifty percent (150%) of the average annual per client expenditure of the previous fiscal year and shall take actions to reduce these treatment costs where appropriate.

(e) The Department of Human Resources and the Department of Public Education shall submit, by May 1 of each fiscal year, a joint report to the Governor and the General Assembly on the progress achieved in serving members of the Willie M. Class. The report shall include the following unduplicated data for each area program/authority: (i) the number of children nominated for the Willie M. Class; (ii) the number of children actually identified as members of the Class in each area program/authority; (iii) the number of children served as members of the Class in each area program/authority; (iv) the number of children who remain unserved or for whom additional services are needed in order to be determined to be appropriately served; (v) the types and locations of treatment and education services provided to Class members; (vi) the cost of services, by type, to members of the Class and the maximum and minimum rates paid to providers for each service; (vii) the number of cases whose treatment costs were in excess of one hundred fifty percent (150%) of the average annual per client expenditure; (viii) information on the impact of treatment and education services on members of the Class; (ix) an explanation of, and justification for, any waiver of departmental rules that affect the Willie M. program; and (x) the total State funds expended, by program, on Willie M. Class members, other than those funds specifically appropriated for the Willie M. programs and services.

(e1) From existing funds available to it, the Department of Human Resources shall begin a process to document and assess individual Class members' progress through the continuum of services. Standardized measures of functioning shall be administered periodically to each member of the Class, and the information generated from these measures shall be used to assess client progress and program effectiveness.

(f) The Departments of Human Resources and Public Education shall provide periodic reports of expenditures and program effectiveness on behalf of the Willie M. Class to the Fiscal Research Division. As part of these reports, the Departments shall explain measures they have taken to control and reduce program expenditures.

(g) In fulfilling the responsibilities vested in it by the Constitution of North Carolina, the General Assembly finds:

- (1) That the General Assembly has evaluated the known needs of the State and has endeavored to satisfy those needs in comparison to their social and economic priorities; and
- (2) That the funds appropriated will enable the development and implementation of placement and services for the Class members in *Willie M., et al. v. Hunt, et al., formerly Willie M., et al. v. Martin, et al., [or Eligible Assaultive and Violent Children]* within a reasonable period of time considered within the context of the needs of the Class members, the other needs of the State, and the resources available to the State.

(h) The General Assembly supports the efforts of the responsible officials and agencies of the State to meet the requirements of the court order in *Willie M., et al. v. Hunt, et al., formerly Willie M., et al. v. Martin, et al., [Willie M., 3:79 CV 294-MU (Western District)]*. To ensure that Willie M. Class members are appropriately served, no State

funds shall be expended on placement and services for Willie M. Class members except:

- (1) Funds specifically appropriated by the General Assembly for the placement and services of Willie M. Class members; and
- (2) Funds for placement and services for which Willie M. Class members are otherwise eligible.

This limitation shall not preclude the use of unexpended Willie M. funds from prior fiscal years to cover current or future needs of the Willie M. program subject to approval by the Director of the Budget. These Willie M. expenditures shall not be subject to the requirements of G.S. 143-18.

(i) Notwithstanding any other provision of law, if the Department of Human Resources determines that a local program is not providing appropriate services to members of the Class identified in Willie M., et al. v. Hunt, et al., formerly Willie M., et al. v. Martin, et al., [or as Eligible Assaultive and Violent Children] the Department may ensure the provision of these services through contracts with public or private agencies or by direct operation by the Department of these programs.

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary
THOMAS S.

Section 11.36. (a) Funds appropriated to the Department of Human Resources in this act for the 1997-98 fiscal year and the 1998-99 fiscal year for members of the Thomas S. Class as identified in Thomas S., et al. v. Britt, formerly Thomas S., et al. v. Flaherty, [Thomas S. et al. v. Bruton, Thomas S., C-C-82-0418M (Western District)] shall be expended only for programs serving Thomas S. Class members or for services for those clients who are:

- (1) Adults with mental retardation, or who have been treated as if they had mental retardation, who were admitted to a State psychiatric hospital on or after March 22, 1984, and who are included on the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services' official list of prospective Class members;
- (2) Adults with mental retardation who have a documented history of State psychiatric hospital admissions regardless of admission date and who, without funding support, have a good probability of being readmitted to a State psychiatric hospital;
- (3) Adults with mental retardation who have never been admitted to a State psychiatric hospital but who have a documented history of behavior determined to be of danger to self or others that results in referrals for inpatient psychiatric treatment and who, without funding support, have a good probability of being admitted to a State psychiatric hospital; or
- (4) Adults who are included on the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services' official list of prospective Class members and have yet to be confirmed as Class members, who currently reside in the community, and who

have a good probability of being admitted to a facility licensed as a "home for the aged and disabled".

No more than five percent (5%) of the funds appropriated in this act for the Thomas S. program shall be used for clients meeting subdivision (2), (3), or (4) of this subsection.

(b) To ensure that Thomas S. Class members are appropriately served, no State funds shall be expended on placement and services for Thomas S. Class members except:

- (1) Funds specifically appropriated by the General Assembly for the placement and services of Thomas S. Class members; and
- (2) Funds for placement and services for which Thomas S. Class members are otherwise eligible.

(b1) Thomas S. funds may be expended to support services for Thomas S. Class members in adult care homes when the service needs of individual Class members in these homes cannot be met via the established maximum adult care home rate.

(c) The Department of Human Resources shall continue to implement a prospective unit cost reimbursement system and shall ensure that unit cost rates reflect reasonable costs by conducting cost center service type rate comparisons and cost center line item budget reviews as may be necessary.

(d) The Department of Human Resources shall submit by April 1 of each fiscal year a report to the General Assembly on the progress achieved in serving members and prospective members of the Thomas S. Class. The report shall include the following:

- (1) The number of Thomas S. clients confirmed as Class members;
- (2) The number of prospective Class members;
- (3) The number of confirmed Class members awaiting services;
- (4) The number of Class members or prospective Class members added in the preceding 12 months due to their admission to a State psychiatric hospital;
- (5) A description of the types of treatment services provided to Class members;
- (6) An analysis of the use of funds appropriated for the Class; and
- (7) The total State funds expended, by program, on Thomas S. Class members, other than those funds specifically appropriated for the Thomas S. program and services.

(e) Notwithstanding any other provision of law, if the Department of Human Resources determines that a local program is not providing minimally adequate services to members of the Class identified in *Thomas S., et al. v. Britt*, formerly *Thomas S., et al. v. Flaherty*, [*Thomas S. et al. v. Bruton*, Thomas S. C-C-82-0418M (Western District)] or does not show a willingness to do so, the Department may ensure the provision of these services through contracts with public or private agencies or by direct operation by the Department of these programs.

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

THOMAS S. FUNDS/COST CONTAINMENT

Section 11.37. (a) If Thomas S. funds are not sufficient, then notwithstanding G.S. 143-16.3 and G.S. 143-23, the Director of the Budget may use funds available to the Department in an amount not to exceed fifteen million two hundred thousand dollars (\$15,200,000).

(b) The Department of Human Resources, in conjunction with area mental health programs, shall develop and implement cost containment measures to reduce the cost of direct services. The Department shall develop these strategies to emphasize positive client outcomes through developmental disability long-term managed supports rather than to emphasize process. These measures shall include, but not be limited to, the following:

- (1) Reduction of those process-oriented tasks required by the State, including, but not limited to, tasks required by the Divisions of: Medical Assistance, Vocational Rehabilitation Services, Social Services, Facilities Services, and Mental Health, Developmental Disabilities, and Substance Abuse Services;
- (2) Single stream funding from all available sources;
- (3) Waivers of federal requirements in order to comply with the federal court order; and
- (4) Review and, if necessary, amendment or repeal of rules that conflict or otherwise interfere with cost containment measures.

(c) The Department shall provide to the members of the House and Senate Appropriations Subcommittees on Human Resources, and to the Fiscal Research Division a detailed report of the status of development and implementation of cost containment measures required under this section. The report shall address each of the measures listed in subsection (b) of this section, and any other related cost containment measures developed by the Department. The Department shall provide the report on December 1, 1997, and May 1, 1998.

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

THOMAS S. LAWSUIT COMPLIANCE

Section 11.38. The Department of Justice and the Department of Human Resources shall pursue all administrative and legal options necessary to enable the State to resolve the Thomas S. lawsuit in the most expeditious and cost-effective manner possible and to seek elimination of the necessity for oversight by a special master.

Requested by: Representatives Gardner, Cansler, Clary

TRI-COUNTY REALIGNMENT INCENTIVE FUNDS

Section 11.39. (a) Of the funds appropriated in this act to the Department of Human Resources, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, the sum of one million two hundred thousand dollars (\$1,200,000) for the 1997-98 fiscal year and the sum of one million two hundred thousand dollars (\$1,200,000) for the 1998-99 fiscal year shall be allocated by the Division to any existing area authority that has aligned with one or more of the counties that comprised the Tri-County Area Authority. Funds shall be allocated only if the per

capita funding level for the existing area authority is greater than the per capita funding level of the county that aligned with the existing area authority. Funds allocated to an existing area authority under this subsection shall not exceed the amount necessary in each fiscal year to raise the aligned county's level of per capita funding to that of the existing area authority.

(b) Of the funds appropriated in this act to the Department of Human Resources, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, the sum of two hundred fifty thousand dollars (\$250,000) for the 1997-98 fiscal year may be allocated by the Division to one or more of the former Tri-County Area Authority counties to address infrastructural needs necessary to accomplish the realignment authorized under this section.

(c) Funds allocated under this section shall not be used for any purpose other than the purposes authorized. Funds appropriated but not allocated at the end of the 1997-99 fiscal biennium shall revert to the General Fund.

Requested by: Senators Cooper, Martin of Guilford, Representatives Gardner, Cansler, Clary

SPECIAL ALZHEIMER'S UNITS

Section 11.40. (a) The Special Alzheimer's Unit established in Wilson by funds appropriated in Chapter 507 of the 1995 Session Laws and the Special Alzheimer's Unit in Black Mountain shall serve only those clients who cannot be served by a similar private facility.

(b) The Department of Human Resources shall solicit information from private providers for the operation of the Special Alzheimer's Units in Wilson and Black Mountain. The Department shall report to the members of the House and Senate Appropriations Subcommittees on Human Resources and the Fiscal Research Division by March 1, 1998. The report shall provide the cost of operation of the Units by the State as compared to the cost of operation by private providers who have submitted information.

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

ALLOCATION OF MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE EXPANSION FUNDS

Section 11.41. Of the funds appropriated in this act to the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, Department of Human Resources, for expansion of mental health, developmental disabilities, and substance abuse programs and services, other than crisis services, those funds needed by area authorities for "catch-up" purposes shall be allocated pursuant to the Incentive Method adopted by the Mental Health Study Commission and presented in the Commission's Report to the 1995 General Assembly, 1996 Regular Session.

Requested by: Senator Martin of Guilford

SUBSTANCE ABUSE PROGRAM GRANTS

Section 11.42. (a) Of the funds appropriated in this act to the Department of Human Resources, the sum of one million two hundred fifty

thousand dollars (\$1,250,000) for the 1997-98 fiscal year shall be placed in a Reserve for Substance Abuse Treatment Programs. The Secretary of Human Resources shall conduct a study of the various substance abuse treatment programs in the State, including but not limited to: The Pavilion Foundation in Polk County, Amythest in Charlotte, Charter Pines in Charlotte, Bethel Colony in Lenoir, and Appalachian Hall in Asheville. The Secretary may use funds from the Reserve to allocate grants-in-aid to those substance abuse programs that the Secretary determines to be working most efficiently and effectively. The Secretary shall also study whether the State should subsidize the treatment of persons covered under the Teachers' and State Employees' Comprehensive Major Medical Plan in those substance abuse facilities that are working efficiently and effectively, and may allocate up to two hundred fifty thousand dollars (\$250,000) of the funds allocated to the Reserve under this subsection for the 1997-98 fiscal year to subsidize the treatment in those facilities determined by the Secretary to be working efficiently and effectively.

(b) The Secretary shall report to the Joint Legislative Commission on Governmental Operations on the findings of the studies and on the grants-in-aid allocated under this section.

Requested by: Representatives Gardner, Cansler, Clary, Senator Martin of Guilford

EARLY INTERVENTION FUNDING/REFERRAL

Section 11.43. Of the funds appropriated in this act to the Department of Human Resources, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, the sum of five million dollars (\$5,000,000) for the 1997-98 fiscal year and the sum of five million dollars (\$5,000,000) for the 1998-99 fiscal year shall be allocated based on a plan developed in consultation with the affected divisions within the Department and the North Carolina Interagency Coordinating Council to meet the needs of those children who are on the waiting list for early intervention services. The Department may create up to 41 new positions, as needed, in the Division of Services for the Blind and the Division of Services for the Deaf and the Hard of Hearing to expand early intervention-related preschool services.

The agencies providing early intervention services to children from birth through five years of age shall work together to develop procedures to ensure that Beginnings for Parents of Hearing-Impaired Children, Inc., shall be notified of children newly identified with hearing loss and determined to be eligible for services.

Requested by: Representatives Gardner, Cansler, Clary

EFFICIENCY STUDY OF STATE PSYCHIATRIC HOSPITALS

Section 11.44. (a) The Department of Human Resources shall contract with an independent consulting firm with proven experience in hospital administration/management and an understanding of the special operational issues related to psychiatric hospitals to conduct a study of the management and operation of the four State psychiatric hospitals. The purpose of the study shall be to identify areas for improved operations and

efficiency. The study shall address, but not be limited to, patient-to-staff ratios, cost-efficiency of the various patient units within the hospitals, and potential areas for achieving greater cost-efficiencies by contracting with private providers. If the findings of the study reflect the need for specific physical plant renovations, replacements, or new construction, the report shall provide information which reflects the cost-efficiencies which would result from the improvements and the time period over which the cost-efficiencies would repay the cost of improvements. The study shall also consider all potential sources of revenue for the hospitals and what impact any proposed operational changes may have on that revenue and the overall need for appropriations from the General Fund. Contract services shall be paid for from funds available to the Department.

(b) The results of the study and the Department's response to the study shall be provided to the cochairs of the House and Senate Appropriations Subcommittees on Human Resources and the Fiscal Research Division not later than April 1, 1998.

Requested by: Representatives Crawford, Gardner, Cansler, Clary, Wilkins
BUTNER COMMUNITY LAND RESERVATION

Section 11.45. The Department of Human Resources shall reserve and dedicate the following described land for the construction of a Community Building and related facilities to serve the Butner Reservation:

"Approximately 2 acres, on the east side it borders Central Avenue with a line running along the Wallace Bradshur property on the north back to the tree line next to the ADATC. From there it follows the tree line south and west to and including the softball field. From the softball field it turns east to the State Employees Credit Union and follows the Credit Union property on the south side back to Central Avenue."

This land shall be reserved and dedicated for the project which shall be funded with contributions from Granville County, contributions from the residents of the Butner Reservation, the use of cablevision franchise rebate funds received by the Department of Human Resources on behalf of the Butner Reservation, and other public and private sources.

The Butner Planning Council shall advise the Secretary of Human Resources, through resolutions adopted by the Council, regarding the use of this reserved and dedicated land, the construction of the Community Building, and the expenditure of the cablevision franchise rebate funds.

The Department of Human Resources shall reserve and dedicate the above described property for the above described purposes until the time, if any, that a permanent local government is established on the Butner Reservation at which time the land shall be transferred to the local government.

Requested by: Representatives Gardner, Cansler, Clary
LEGISLATIVE STUDY COMMISSION ON MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES

Section 11.46. (a) G.S. 120-205 reads as rewritten:

"§ 120-205. *Commission membership; meetings; terms; vacancies.*

(a) This commission shall be composed of ~~21~~ 22 members appointed as follows:

- (1) Seven members of the House of Representatives at the time of their appointment, appointed by the Speaker of the House of Representatives. Of these members, one shall be a Chair of the House Appropriations Subcommittee on Human Resources;
- (2) Seven members of the Senate at the time of their appointment, appointed by the President Pro Tempore of the Senate. Of these members, one shall be the Chair of the Senate Human Resources Appropriations Committee;
- (3) Three members who are representatives of Coalition 2001, appointed by the Governor. Of these members, one shall be a representative from mental health, one from developmental disabilities, and one from substance abuse services;
- (4) Two members of the public, appointed by the Speaker of the House of Representatives. Of these members, one shall be a county commissioner at the time of appointment, selected from a list of four candidates nominated by the North Carolina Association of County Commissioners. If the Association has failed to submit nominations by September 1, 1996, the Speaker of the House of Representatives may appoint any county commissioner; and
- (5) Two members of the public, appointed by the President Pro Tempore of the Senate. Of these members, one shall be a county commissioner at the time of appointment, selected from a list of four candidates nominated by the North Carolina Association of County Commissioners. If the Association has failed to submit nominations by September 1, 1996, the President Pro Tempore of the Senate may appoint any county ~~commissioner~~ commissioner; and
- (6) One member who is a representative of the North Carolina Hospital Association, appointed by the Governor.

(b) The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall each select a legislative member from their appointments to serve as cochair of the commission. Meetings shall be called at the will of the cochairs.

(c) All members shall serve at the will of their appointing officer. Unless removed or unless resigning, members shall serve for two-year terms. Members may be reappointed. Vacancies in membership shall be filled by the appropriate appointing officer."

(b) This section is effective when this act becomes law.

Requested by: Representatives Gardner, Cansler, Clary
WHITAKER SCHOOL REPLACEMENT FACILITY

Section 11.47. The Department of Human Resources and the Office of State Budget and Management shall, in consultation with the Human Rights Committee of the Whitaker School in Butner, attempt to locate a facility that would be a suitable replacement facility for the Whitaker School. The facility may be located in Butner or elsewhere. To be a suitable

replacement, the existing facility must be of size and structural condition to reasonably accommodate current needs and must represent overall an improvement over the current facility housing Whitaker School. The Department may also investigate and consider whether it would be more cost-effective to build a new facility than to renovate an existing facility. If a suitable existing facility is located, then the Department and Office of State Budget and Management shall pursue funding for repairs and renovations that may be necessary to render the facility a suitable replacement. Not later than May 1, 1998, the Department shall provide a status report on its search for a replacement facility to the House and Senate Appropriations Subcommittees on Human Resources, the Fiscal Research Division, and the Human Rights Committee of the Whitaker School. If the Department determines that it would be more cost-effective to build a new facility than to repair an existing facility, then the Department shall provide information supporting its determination in its May 1, 1998, report.

Requested by: Representatives Gardner, Cansler, Clary

FORENSIC TREATMENT PROGRAM

Section 11.48. The Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services shall adopt temporary rules, in accordance with Chapter 150B of the General Statutes, to implement the forensic treatment program at Dorothea Dix Hospital. Notwithstanding the provisions of Chapter 122C of the General Statutes pertaining to seclusion, the rules shall include, for the purpose of protecting the health, safety, and welfare of patients, employees, and the general public, provisions for locking the rooms of patients in the forensic treatment program during rest times, including normal sleeping hours.

Requested by: Representatives Gardner, Cansler, Clary

STUDY DOWNSIZING OF MENTAL RETARDATION CENTERS

Section 11.49. The Department of Human Resources shall conduct a study of the impact of the plan for downsizing mental retardation centers currently being implemented by the Department. The study shall include the time period from the commencement of implementation through June 30, 1996. The study shall include, but is not limited to, the impact on patient census, staffing in general, staff-to-patient ratios, budget changes, placement of clients in the community, and development of community services for developmental disability clients. The Department shall provide the results of the study to the House and Senate Appropriations Subcommittees on Human Resources and the Fiscal Research Division not later than March 2, 1998.

Requested by: Representatives Gardner, Cansler, Clary

MENTAL HEALTH FUNDS FOR CRISIS SERVICES

Section 11.50. Purposes for which funds are appropriated in this act to the Department of Human Resources, Division of Mental Health, for the development of local crisis services shall include, but not be limited to, meeting the short-term crisis needs of mentally retarded children determined by the Division to need crisis services. The Division shall pursue the use of

available State resources and services for these children, including mental retardation centers, for short-term crisis treatment for appropriate minors, as determined by the Division.

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

ANNUAL EVALUATION OF WILDERNESS CAMP, COACH MENTOR TRAINING, AND GOVERNOR'S ONE-ON-ONE PROGRAMS

Section 11.51. The Department of Human Resources shall conduct an annual evaluation of the Wilderness Camp, Coach Mentor Training, and Governor's One-on-One Programs. The results of the evaluation shall be submitted to the Joint Legislative Commission on Governmental Operations no later than October 1 of each year covering the program for the prior fiscal year. In conducting the evaluation, among other things, the focus shall be on directing youth toward long-term positive and productive noncriminal behavior. The review shall be qualitative and quantitative.

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

DYS TRAINING SCHOOLS/STUDENT EVALUATIONS

Section 11.52. The Department of Human Resources shall take immediate steps to ensure that multidisciplinary diagnoses and evaluations, as provided for in G.S. 115C-113, are made on all students in training schools operated by the Division of Youth Services and that the requisite resources and services are provided for all DYS training school students who are identified as children with special needs. The Department may use funds available to provide evaluations, resources, and services, but shall not reduce current DYS services. Lapsed salary funds shall not be used to create new permanent positions.

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

COMMUNITY-BASED ALTERNATIVES PARTICIPATION

Section 11.53. County governments participating in the Community-Based Alternatives Program shall certify annually to the Division of Youth Services, Department of Human Resources, that Community-Based Alternatives Aid to Counties shall not be used to duplicate or supplant other programs within the county.

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

S.O.S. AND FAMILY RESOURCE CENTER GRANT PROGRAMS ADMINISTRATIVE COST LIMITS

Section 11.54. (a) Of the funds appropriated to the Department of Human Resources in this act, not more than three hundred fifty thousand dollars (\$350,000) for the 1997-98 fiscal year and not more than three hundred fifty thousand dollars (\$350,000) for the 1998-99 fiscal year may be used to administer the S.O.S. Program, to provide technical assistance to applicants and to local S.O.S. programs, and to evaluate the local S.O.S.

programs. The Department may contract with appropriate public or nonprofit agencies to provide the technical assistance, including training and related services.

(b) Of the funds appropriated in this act to the Department of Human Resources for the Family Resource Center Grant Program, the Department may use up to two hundred fifty thousand dollars (\$250,000) in each fiscal year to administer the Program.

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary, Shubert

EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES PROGRAM

Section 11.55. (a) The General Assembly finds that it is essential to continue developing comprehensive programs that provide high quality early childhood education and development services locally for children and their families. The General Assembly intends to expand the Early Childhood Education and Development Initiatives Program (the "Program") in a manner which ensures quality assurance and performance-based accountability for the Program.

(b) Notwithstanding any provision of Part 10B of Article 3 of Chapter 143B of the General Statutes or any other provision of law or policy, the Department of Human Resources and the North Carolina Partnership for Children, Inc., jointly shall continue to implement the recommendations contained in the Smart Start Performance Audit prepared pursuant to Section 27A(1)b. of Chapter 324 of the 1995 Session Laws, as modified by Section 24.29 of Chapter 18 of the Session Laws, Second Extra Session 1996. The North Carolina Partnership for Children, Inc., shall continue to report quarterly to the Joint Legislative Commission on Governmental Operations on its progress toward full implementation of the modified audit recommendations.

(c) The Joint Legislative Commission on Governmental Operations shall, consistent with current law, continue to be the legislative oversight body for the Program. The President Pro Tempore of the Senate and the Speaker of the House of Representatives may appoint a subcommittee of the Joint Legislative Commission on Governmental Operations to carry out this function. This subcommittee may conduct all initial reviews of plans, reports, and budgets relating to the Program and shall make recommendations to the Joint Legislative Commission on Governmental Operations.

(d) Administrative costs shall be equivalent to, on an average statewide basis for all local partnerships, not more than eight percent (8%) of the total statewide allocation to all local partnerships. What counts as administrative costs shall be as defined in the Smart Start Performance Audit.

(e) Any local partnership, before receiving State funds, shall be required annually to submit a plan and budget for State funds for appropriate programs to the North Carolina Partnership for Children, Inc., and the Joint Legislative Commission on Governmental Operations. State funds to implement the programs shall not be allocated to a local partnership until the

program plan is approved by the North Carolina Partnership for Children, Inc.

(f) The North Carolina Partnership for Children, Inc., and all local partnerships shall use competitive bidding practices in contracting for goods and services on all contract amounts of one thousand five hundred dollars (\$1,500) and above, and, where practicable, on contracts for amounts of less than one thousand five hundred dollars (\$1,500).

(g) The role of the North Carolina Partnership for Children, Inc., shall continue to be expanded to incorporate all the aspects of the new role determined for the Partnership in the Smart Start Performance Audit recommendations and to provide technical assistance to local partnerships, assess outcome goals for children and families, ensure that statewide goals and legislative guidelines are being met, help establish policies and outcome measures, obtain non-State resources for early childhood and family services, and document and verify the cumulative contributions received by the partnerships.

(h) The North Carolina Partnership for Children, Inc., and all local partnerships shall, in the aggregate, be required to match no less than fifty percent (50%) of the total amount budgeted for the Program in each fiscal year of the biennium as follows: contributions of cash equal to at least ten percent (10%) and in-kind donated resources equal to no more than ten percent (10%) for a total match requirement of twenty percent (20%) for each fiscal year. Only in-kind contributions that are quantifiable, as determined in the Smart Start Performance Audit, shall be applied to the in-kind match requirement. Expenses, including both those paid by cash and in-kind contributions, incurred by other participating non-State entities contracting with the North Carolina Partnership for Children or the local partnerships, also may be considered resources available to meet the required private match. In order to qualify to meet the required private match, the expenses shall:

- (1) Be verifiable from the contractor's records;
- (2) If in-kind, be quantifiable in accordance with generally accepted accounting principles for nonprofit organizations;
- (3) Not include expenses funded by State funds;
- (4) Be supplemental to and not supplant preexisting resources for related program activities;
- (5) Be incurred as a direct result of the Early Childhood Initiatives Program and be necessary and reasonable for the proper and efficient accomplishment of the Program's objectives;
- (6) Be otherwise allowable under federal or State law;
- (7) Be required and described in the contractual agreements approved by the North Carolina Partnership for Children or the local partnership; and
- (8) Be reported to the North Carolina Partnership for Children or the local partnership by the contractor in the same manner as reimbursable expenses.

The North Carolina Partnership shall establish uniform guidelines and reporting format for local partnerships to document the qualifying expenses occurring at the contractor level. Local partnerships shall monitor

qualifying expenses to ensure they have occurred and meet the requirements prescribed in this subsection.

Failure to obtain a twenty percent (20%) match by May 1 of each fiscal year shall result in a dollar-for-dollar reduction in the appropriation for the Program for the next fiscal year. The North Carolina Partnership for Children, Inc., shall be responsible for compiling information on the private cash and in-kind contributions into a report that is submitted to the Joint Legislative Commission on Governmental Operations pursuant to G.S. 143B-168.13(5) in a format that allows verification by the Department of Revenue. The same match requirements shall apply to any expansion funds appropriated by the General Assembly.

(i) Counties participating in the Program may use the county's allocation of State and federal child care funds to subsidize child care according to the county's Early Childhood Education and Development Initiatives Plan as approved by the North Carolina Partnership for Children, Inc. The use of federal funds shall be consistent with the appropriate federal regulations. Child care providers shall, at a minimum, comply with the applicable requirements for State licensure or registration pursuant to Article 7 of Chapter 110 of the General Statutes, with other applicable requirements of State law or rule, including rules adopted for nonregistered child care by the Social Services Commission, and with applicable federal regulations.

(j) The Department of Human Resources shall continue to implement the performance-based evaluation system.

(k) The Frank Porter Graham Child Development Center shall continue its evaluation of the Program. Notwithstanding any policy to the contrary, the Frank Porter Graham Child Development Center may use any method legally available to it to track children who are participating or who have participated in any Early Childhood Education and Development Initiative in order to carry out its ongoing evaluation of the Program.

(l) G.S. 143B-168.12(a) reads as rewritten:

"(a) In order to receive State funds, the following conditions shall be met:

- (1) The North Carolina Partnership shall have a Board of Directors consisting of the following 39 members:
 - a. The Secretary of Human Resources, ex officio;
 - b. The Secretary of Environment, Health, and Natural Resources, ex officio;
 - c. The Superintendent of Public Instruction, ex officio;
 - d. The President of the Department of Community Colleges, ex officio;
 - e. One resident from each of the 1st, 3rd, 5th, 7th, 9th, and 11th Congressional Districts, appointed by the President Pro Tempore of the Senate;
 - f. One resident from each of the 2nd, 4th, 6th, 8th, 10th, and 12th Congressional Districts, appointed by the Speaker of the House of Representatives;

- g. Seventeen members, of whom four shall be members of the party other than the Governor's party, appointed by the Governor;
 - h. The President Pro Tempore of the Senate, or a designee;
 - i. The Speaker of the House of Representatives, or a designee;
 - j. The Majority Leader of the Senate, or a designee;
 - k. The Majority Leader of the House of Representatives, or a designee;
 - l. The Minority Leader of the Senate, or a designee; and
 - m. The Minority Leader of the House of Representatives, or a designee.
- (2) The North Carolina Partnership shall agree to adopt procedures for its operations that are comparable to those of Article 33C of Chapter 143 of the General Statutes, the Open Meetings Law, and Chapter 132 of the General Statutes, the Public Records Law, and provide for enforcement by the Department.
- (3) The North Carolina Partnership shall oversee the development and implementation of the local demonstration projects as they are selected.
- (4) The North Carolina Partnership shall develop and implement a comprehensive standard fiscal accountability plan to ensure the fiscal integrity and accountability of State funds appropriated to it and to the local partnerships. The standard fiscal accountability plan shall, at a minimum, include a uniform, standardized system of accounting, internal controls, payroll, fidelity bonding, chart of accounts, and contract management and monitoring. The North Carolina Partnership may contract with outside firms to develop and implement the standard fiscal accountability plan. All local partnerships shall be required to participate in the standard fiscal accountability plan developed and adopted by the North Carolina Partnership pursuant to this subdivision.
- (5) The North Carolina Partnership shall develop and implement a centralized accounting and contract management system which incorporates features of the required standard fiscal accountability plan described in subdivision (4) of subsection (a) of this section. The following local partnerships shall be required to participate in the centralized accountability system developed by the North Carolina Partnership pursuant to this subdivision:
- a. Local partnerships which have significant deficiencies in their accounting systems, internal controls, and contract management systems, as determined by the North Carolina Partnership based on the annual financial audits of the local partnerships conducted by the Office of the State Auditor; and
 - b. Local partnerships which are in the first two years of operation following their ~~selection~~ selection, except for those created by combination with existing local partnerships. At the end of this two-year period, local partnerships shall continue to participate in the centralized accounting and contract management system. With the approval of the North Carolina

Partnership, local partnerships may perform accounting and contract management functions at the local level using the standardized and uniform accounting system, internal controls, and contract management systems developed by the North Carolina Partnership.

Local partnerships which otherwise would not be required to participate in the centralized accounting and contract management system pursuant to this subdivision may voluntarily choose to participate in the system. Participation or nonparticipation shall be for a minimum of two years, unless, in the event of nonparticipation, the North Carolina Partnership determines that any partnership's annual financial audit reveals serious deficiencies in accounting or contract management.

- (6) The North Carolina Partnership shall develop a formula for allocating direct services funds appropriated for this purpose to local partnerships.
- (7) The North Carolina Partnership may adjust its allocations on the basis of local partnerships' performance assessments. In determining whether to adjust its allocations to local partnerships, the North Carolina Partnership shall consider whether the local partnerships are meeting the outcome goals and objectives of the North Carolina Partnership and the goals and objectives set forth by the local partnerships in their approved annual program plans.

The North Carolina Partnership may use additional factors to determine whether to adjust the local partnerships' allocations. These additional factors shall be developed with input from the local partnerships and shall be communicated to the local partnerships when the additional factors are selected. These additional factors may include board involvement, family and community outreach, collaboration among public and private service agencies, and family involvement.

On the basis of performance assessments, local partnerships annually shall be rated 'superior', 'satisfactory', or 'needs improvement'. Local partnerships rated 'superior' shall may receive, to the extent that funds are available, a ten percent (10%) increase in their annual funding allocation. Local partnerships rated 'satisfactory' shall may receive their annual funding allocation. Local partnerships rated 'needs improvement' shall may receive ninety percent (90%) of their annual funding allocation.

The North Carolina Partnership may contract with outside firms to conduct the performance assessments of local partnerships.

- (8) The North Carolina Partnership shall establish a local partnership advisory committee comprised of 15 members. Eight of the members shall be chairs of local partnerships' board of directors, and seven shall be staff of local partnerships. Members shall be chosen by the Chair of the North Carolina Partnership from a pool of candidates nominated by their respective boards of directors.

The local partnership advisory committee shall serve in an advisory capacity to the North Carolina Partnership and shall establish a schedule of regular meetings. Members shall serve two-year terms and shall not serve more than two consecutive terms. Members shall be chosen from local partnerships on a rotating basis. The advisory committee shall annually elect a chair from among its members.

- (9) The North Carolina Partnership shall report (i) quarterly to the Joint Legislative Commission on Governmental Operations and (ii) to the General Assembly and the Governor on the ongoing progress of all the local partnerships' work, including all details of the use to which the allocations were put, and on the continuing plans of the North Carolina Partnership and of the Department, together with legislative proposals, including proposals to implement the program statewide."

(m) G.S. 143B-168.13(a) reads as rewritten:

"(a) The Department shall:

- (1) Develop a statewide process, in cooperation with the North Carolina Partnership, to select the local demonstration projects. The first 12 local demonstration projects developed and implemented shall be located in the 12 congressional districts, one to a district. The locations of subsequent selections of local demonstration projects shall represent the various geographic areas of the State.
- (2) Develop and conduct a statewide needs and resource assessment every third year, beginning in the 1997-98 fiscal year. This needs assessment shall be conducted in cooperation with the North Carolina Partnership and with the local partnerships. The Department may contract with an independent firm to conduct the needs assessment. The needs assessment shall be conducted in a way which enables the Department and the North Carolina Partnership to review, and revise as necessary, the total program cost estimate and methodology. The data and findings of this needs assessment shall form the basis for annual program plans developed by local partnerships and approved by the North Carolina Partnership. A report of the findings of the needs assessment shall be presented to the General Assembly prior to the beginning of the 1999 Session and every three years after that date.
- (2a) Develop and maintain an automated, publicly accessible database of all regulated child care programs.
- (3) ~~Provide technical and administrative assistance to local partnerships, particularly during the first year after they are selected under this Part to receive State funds. The Department, at any time, may authorize the North Carolina Partnership or a governmental or public entity to do the contracting for one or more local partnerships. After a local partnership's first year, the Department may allow the partnership to contract for itself.~~

- (4) Adopt, in cooperation with the North Carolina Partnership, any rules necessary to implement this Part, including rules to ensure that State leave policy is not applied to the North Carolina Partnership and the local partnerships. In order to allow local partnerships to focus on the development of long-range plans in their initial year of funding, the Department may adopt rules that limit the categories of direct services for young children and their families for which funds are made available during the initial year.
- (5) Repealed by Session Laws 1996, Second Extra Session, c. 18, s. 24.29(c).
- (6) Annually update its funding formula using the most recent data available. These amounts shall serve as the basis for determining 'full funding' amounts for each local partnership."
- (n) G.S. 143B-168.15 reads as rewritten:

"§ 143B-168.15. *Use of State funds.*

(a) State funds allocated to local projects for services to children and families shall be used to meet assessed needs, expand coverage, and improve the quality of these services. The local plan shall address the assessed needs of all children to the extent feasible. It is the intent of the General Assembly that the needs of both young children below poverty who remain in the home, as well as the needs of young children below poverty who require services beyond those offered in child care settings, be addressed. Therefore, as local partnerships address the assessed needs of all children, they should devote an appropriate amount of their State allocations, considering these needs and other available resources, to meet the needs of children below poverty and their families.

(b) Depending on local, regional, or statewide needs, funds may be used to support activities and services that shall be made available and accessible to providers, children, and families on a voluntary basis. Of the total funds allocated to all local partnerships that are designated by the Secretary for direct services, seventy-five percent (75%) shall be used for any one or more of the following activities and services:

- (1) ~~Child day care services, including:~~
 - a. ~~Child day care subsidies to reduce waiting lists;~~
 - b. ~~Raising the county child day care subsidy rate to the State market rate, if applicable, in return for improvements in the quality of child day care services;~~
 - c. ~~Raising the income eligibility for child day care subsidies to seventy-five percent (75%) of the State median family income;~~
 - d. ~~Start-up funding for child day care providers;~~
 - e. ~~Assistance to enable child day care providers to conform to licensing and building code requirements;~~
 - f. ~~Child day care resources and referral services;~~
 - g. ~~Enhancement of the quality of child day care provided;~~
 - h. ~~Technical assistance for child day care providers;~~
 - i. ~~Quality grants for child day care centers or family child day care homes;~~

- j. ~~Expanded services or enhanced rates for children with special needs;~~
 - k. ~~Head Start services;~~
 - l. ~~Development of comprehensive child day care services that include child health and family support;~~
 - m. ~~Activities to reduce staff turnover;~~
 - n. ~~Activities to serve children with special needs;~~
 - o. ~~Transportation services related to providing child day care services;~~
 - p. ~~Evaluation of plan implementation of child day care services; and~~
 - q. ~~Needs and resources assessments for child day care services.~~
- (2) ~~Family- and child-centered services, including early childhood education and child development services, including:~~
- a. ~~Enhancement of the quality of family- and child-centered services provided;~~
 - b. ~~Technical assistance for family- and child-centered services;~~
 - c. ~~Needs and resource assessments for family- and child-centered services;~~
 - d. ~~Home-centered services; and~~
 - e. ~~Evaluation of plan implementation of family- and child-centered services.~~
- (3) ~~Other appropriate activities and services for child day care providers and for family- and child-centered services, including:~~
- a. ~~Staff and organizational development, leadership and administrative development, technology assisted education, and long-range planning; and~~
 - b. ~~Procedures to ensure that infants and young children receive needed health, immunization, and related services. seventy percent (70%) shall be used in child care-related activities and programs which improve access to child care services, develop new child care services, or improve the quality of child care services in all settings.~~

(c) Long-term plans for local projects that do not receive their full allocation in the first year, other than those selected in 1993, should consider how to meet the assessed needs of low-income children and families within their neighborhoods or communities. These plans also should reflect a process to meet these needs as additional allocations and other resources are received.

(d) State funds designated for start-up and related activities may be used for capital expenses or to support activities and services for children, families, and providers. State funds designated to support direct services for children, families, and providers shall not be used for major capital expenses unless the North Carolina Partnership approves this use of State funds based upon a finding that a local partnership has demonstrated that (i) this use is a clear priority need for the local plan, (ii) it is necessary to enable the local partnership to provide services and activities to underserved children and families, and (iii) the local partnership will not otherwise be able to meet this priority need by using State or federal funds available to

that local partnership. The funds approved for capital projects in any two consecutive fiscal years may not exceed ten percent (10%) of the total funds for direct services allocated to a local partnership in those two consecutive fiscal years.

(e) State funds allocated to local partnerships shall not supplant current expenditures by counties on behalf of young children and their families, and maintenance of current efforts on behalf of these children and families shall be sustained. State funds shall not be applied without the Secretary's approval where State or federal funding sources, such as Head Start, are available or could be made available to that county.

(f) Local partnerships may carry over funds from one fiscal year to the next, subject to the following conditions:

(1) Local partnerships in their first year of receiving direct services funding may, on a one-time basis only, carry over any unspent funds to the subsequent fiscal year.

(2) Any local partnership may carry over any unspent funds to the subsequent fiscal year, subject to the limitation that funds carried over may not exceed the increase in funding the local partnership received during the current fiscal year over the prior fiscal year.

(g) Not less than thirty percent (30%) of each local partnership's direct services allocation shall be used to expand child day care subsidies. To the extent practicable, these funds shall be used to enhance the affordability, availability, and quality of child day care services as described in this section. The North Carolina Partnership may increase this percentage requirement up to a maximum of fifty percent (50%) when, based upon the local waiting list for subsidized child care or the total percentage of children served whose families are income eligible for subsidized child care, the North Carolina Partnership determines a higher percentage is justified.

(o) The North Carolina Partnership shall not apply the subsidy requirement in G.S. 143B-168.15(g) to the 45 counties eligible to receive planning funds in 1997-98.

(p) There is allocated from the funds appropriated to the Department of Human Resources, Division of Child Development, in this act, the sum of twenty-two million two hundred fifty-eight thousand six hundred twenty-five dollars (\$22,258,625) for the 1997-98 fiscal year and the sum of twenty-five million two hundred ninety-eight thousand eight hundred thirty-eight dollars (\$25,298,838) for the 1998-99 fiscal year to be used as follows:

(1) Of the 35 partnerships existing as of the 1996-97 fiscal year, funds for direct services shall be increased a total of \$15,215,912 for the 1997-98 fiscal year and \$15,215,912 for the 1998-99 fiscal year. The North Carolina Partnership for Children, Inc., may use up to \$1,500,000 of these funds in the 1997-98 fiscal year as planning funds for the remaining 45 unfunded counties.

(2) For the 12 new partnerships planned for as of the 1996-97 fiscal year, funds shall be \$5,252,713 for the 1997-98 fiscal year and \$9,142,926 for the 1998-99 fiscal year to administer and deliver direct services.

(3) The North Carolina Partnership for Children, Inc., shall receive an additional \$700,000 in the 1997-98 fiscal year and an

additional \$700,000 in the 1998-99 fiscal year for the State-level administration of the Program.

- (4) The Department of Human Resources shall receive \$750,000 in nonrecurring funds in the 1997-98 fiscal year to conduct a statewide needs and resources assessment.
- (5) The Department of Human Resources shall receive \$100,000 in nonrecurring funds in the 1997-98 fiscal year to complete the automation of a database of all regulated child care programs.
- (6) The Department of Human Resources shall receive \$240,000 in the 1997-98 fiscal year and \$240,000 in the 1998-99 fiscal year for professional development programs.

(q) Of the funds appropriated to the Department of Human Resources for the Program for the 1997-99 biennium, the Frank Porter Graham Child Development Center shall receive the sum of eight hundred fifty thousand dollars (\$850,000) for the 1997-98 fiscal year and the sum of eight hundred fifty thousand dollars (\$850,000) for the 1998-99 fiscal year.

Requested by: Representatives Cansler, Gardner, Clary —

CHILD CARING INSTITUTION FUND

Section 11.56. (a) There is allocated from the funds appropriated to the Department of Human Resources, Division of Social Services, Child Caring Institution Fund, the sum of two million dollars (\$2,000,000) for the 1997-98 fiscal year and the sum of two million dollars (\$2,000,000) for the 1998-99 fiscal year in order to increase the balance in the CCI Fund. Funds allocated under this section shall be used to increase the private child caring agency reimbursement rate for the State-funded portion of services to children who are not eligible for federal IV-E or AFDC-EA subsidies.

(b) Funds allocated under this section shall be used to increase reimbursement rates to those child caring agencies providing residential care services and behavioral health care services under agreements with the county departments of social services during fiscal year 1996-97. Counties shall not reduce their contributions to the agencies' cost of care as a result of the allocation of funds under subsection (a) of this section. County contributions to the cost of care shall continue to be negotiated between the counties and the agencies. County contributions to the cost of care shall not be used to reduce or offset State reimbursement for the cost of care in private child caring institutions.

(c) Funds allocated under this section shall be allocated to agencies by the Division of Social Services according to the current and agreed upon formulas and reimbursement methodologies, adjusted to reflect the additional funds appropriated. Funds allocated from the CCI Fund may be used by agencies to match federal funds for eligible children.

Requested by: Representatives Gardner, Cansler, Clary

CHILD WELFARE SYSTEM IMPROVEMENTS

Section 11.57. (a) Of the funds appropriated in this act to the Department of Human Resources, Division of Social Services, the sum of two million two hundred sixty-nine thousand seven hundred fifty-two dollars (\$2,269,752) for the 1997-98 fiscal year and the sum of two million two

hundred sixty-nine thousand seven hundred fifty-two dollars (\$2,269,752) for the 1998-99 fiscal year shall be allocated to county departments of social services for hiring or contracting for additional foster care and adoption worker positions created after July 1, 1997, based upon a formula which takes into consideration the number of foster care and adoption cases and the number of foster care and adoption workers necessary to meet recommended standards adopted by the North Carolina Association of County Directors of Social Services. County departments of social services shall make diligent efforts to hire staff with a professional social work degree from an accredited social work program.

(b) Of the funds appropriated in this act to the Department of Human Resources, Division of Social Services, the sum of one hundred fifty-nine thousand dollars (\$159,000) for the 1997-98 fiscal year and the sum of one hundred sixty-three thousand dollars (\$163,000) for the 1998-99 fiscal year shall be used to establish and maintain a State Child Fatality Review Team to conduct in-depth reviews of any child fatalities which have occurred involving children and families involved with local departments of social services child protective services in the 12 months preceding the fatality.

The purpose of these reviews shall be to implement a team approach to identifying factors which may have contributed to conditions leading to the fatality and to develop recommendations for improving coordination between local and State entities which might have avoided the threat of injury or fatality and to identify appropriate remedies. The Division of Social Services shall make public the findings and recommendations developed for each fatality reviewed relating to improving coordination between local and State entities.

The State Child Fatality Review Team shall include representatives of the local departments of social services and the Division of Social Services, a member of the local Community Child Protection Team, a member of the local child fatality prevention team, a representative from local law enforcement, a prevention specialist, and a medical professional.

The State Child Fatality Review Team shall have access to all medical records, hospital records, and records maintained by this State, any county, or any local agency as necessary to carry out the purposes of this subsection, including police investigative data, medical examiner investigative data, health records, mental health records, and social services records. Any member of the State Child Fatality Review Team may share, only in an official meeting of the State Child Fatality Review Team, any information available to that member that the State Child Fatality Review Team needs to carry out its duties.

Meetings of the State Child Fatality Review Team are not subject to the provisions of Article 33C of Chapter 143 of the General Statutes. However, the State Child Fatality Review Team may hold periodic public meetings to discuss, in a general manner not revealing confidential information about children and families, the findings of their reviews and their recommendations for preventive actions. Minutes of all public meetings, excluding those of executive sessions, shall be kept in compliance with Article 33C of Chapter 143 of the General Statutes. Any minutes or any

other information generated during any executive session shall be sealed from public inspection.

All otherwise confidential information and records acquired by the State Child Fatality Review Team, in the exercise of its duties are confidential; are not subject to discovery or introduction into evidence in any proceedings except pursuant to an order of the court; and may only be disclosed as necessary to carry out the purposes of the State Child Fatality Review Team. In addition, all otherwise confidential information and records created by the State Child Fatality Review Team in the exercise of its duties are confidential; are not subject to discovery or introduction into evidence in any proceedings; and may only be disclosed as necessary to carry out the purposes of the State Child Fatality Review Team. No member of the State Child Fatality Review Team, nor any person who attends a meeting of the State Child Fatality Review Team, may testify in any proceeding about what transpired at the meeting, about information presented at the meeting, or about opinions formed by the person as a result of the meetings. This subsection shall not, however, prohibit a person from testifying in a civil or criminal action about matters within that person's independent knowledge.

Each member of the State Child Fatality Review Team and invited participant shall sign a statement indicating an understanding of and adherence to confidentiality requirements, including the possible civil or criminal consequences of any breach of confidentiality.

Funds allocated under this subsection shall be used as follows:

- (1) To contract with a statewide prevention organization and a statewide medical organization to identify and orient prevention specialists and medical professionals with experience in reviewing child fatalities to serve on the State Child Fatality Review Team; and
- (2) To pay per diem expenses for the five participants in each review who are not employed by the Division of Social Services or county departments of social services.

The Division of Social Services, Department of Human Resources, shall report quarterly to the Cochairs of the House and Senate Appropriations Subcommittees on Human Resources and the Fiscal Research Division on the activities of the State Child Fatality Review Team and shall provide a final report to the House and Senate Appropriations Subcommittees on Human Resources within one week of the convening of the 1997 General Assembly, Regular Session 1998, including recommendations for changes in the statewide child protection system.

(c) Counties shall not use State funds appropriated for child welfare services to supplant county funds or reduce county expenditures for child welfare services.

(d) Notwithstanding G.S. 131D-10.6A, the Division of Social Services shall establish training requirements for child welfare services staff initially hired on and after January 1, 1998. The minimum training requirements established by the Division shall be as follows:

- (1) Child welfare services workers must complete a minimum of 72 hours of preservice training before assuming direct client contact responsibilities;

- (2) Child protective services workers must complete a minimum of 18 hours of additional training that the Division determines is necessary to adequately meet training needs;
- (3) Foster care and adoption social workers must complete a minimum of 39 hours of additional training that the Division determines is necessary to adequately meet training needs;
- (4) Child Welfare Services supervisors must complete a minimum of 72 hours of preservice training before assuming supervisory responsibilities, and a minimum of 54 hours of additional training that the Division determines is necessary to adequately meet training needs; and
- (5) Child welfare services staff must complete 24 hours of continuing education annually thereafter.

The Division of Social Services shall ensure that training opportunities are available for county departments of social services and consolidated human services agencies to meet the training requirements of this subsection.

This subsection shall expire June 30, 1999.

Requested by: Representatives Gardner, Cansler, Clary

LIMITATIONS ON STATE ABORTION FUND

Section 11.58. The limitations on funding of the performance of abortion established in Section 23.27 of Chapter 324 of the 1995 Session Laws, Regular Session 1996, as amended by Section 23.8A of Chapter 507 of the 1995 Session Laws, Regular Session 1996, apply to the 1997-98 and 1998-99 fiscal years.

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

FAMILY SUPPORT/DEAF AND HARD OF HEARING SERVICES CONTRACT

Section 11.59. Of the funds appropriated in this act to the Division of Services for the Deaf and Hard of Hearing, Department of Human Resources, for family support services, the sum of five hundred three thousand two hundred thirty-eight dollars (\$503,238) for the 1997-98 fiscal year and the sum of five hundred three thousand two hundred thirty-eight dollars (\$503,238) for the 1998-99 fiscal year shall be used to contract with a private, nonprofit corporation licensed to do business in North Carolina to perform those services, including family support and advocacy services as well as technical assistance to professionals who work with families of hearing-impaired children.

Requested by: Senators Martin of Guilford, Winner, Lee, Representatives Gardner, Cansler, Clary

IMPLEMENT ABC'S PLAN FOR RESIDENTIAL SCHOOLS

Section 11.60. (a) The Department of Human Resources shall plan to implement the State Board of Education's ABC's Plan for all of its residential schools where children are in attendance for more than 120 days

a year. The ABC's Plan shall be implemented for the 1998-99 school year, if possible.

(b) The State Board of Education shall assist the Department of Human Resources with the implementation. The Department of Human Resources and the State Board of Education shall:

- (1) Identify any policy or technical reason this accountability model cannot be adopted in the residential schools.
- (2) Develop accountability standards for each residential school, including baseline data for these standards. Accountability standards shall also be developed to measure improvements in performance among the nondiploma bound students attending the residential schools.
- (3) Determine the feasibility of implementing these accountability standards in the 1998-99 school year and propose a phase-in approach, if necessary.
- (4) Define the strategies and consequences for State intervention in low-performing residential schools.
- (5) Review the site-based management practices within the State Board of Education which, if implemented in the Department of Human Resources, should result in improved student performance.

The State Board of Education and the Department of Human Resources shall report jointly on their progress toward implementation in an interim report to the Joint Legislative Education Oversight Committee by October 1, 1997, and with a final report to that Committee by April 1, 1998.

(c) In addition to the implementation of the ABC's Plan in the Department of Human Resources' residential schools, the State Board of Education and the Department of Human Resources shall study and report on the following issues:

- (1) Mandatory accreditation and dual certification of teachers in the residential schools.
- (2) Comparison of the staffing and financial resources available to serve special needs children in local education authorities versus residential schools (excluding the residential cost component).
- (3) Alignment of the Department of Human Resources' curricula with the State Board of Education's high school vocational educational curriculum, including opportunities for the residential schools to participate in the Tech Prep program with the community colleges.
- (4) Strategies for developing select residential schools as resource centers to local educational authorities in serving their special needs children.

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

DIVISION OF SERVICES FOR BLIND/PERFORMANCE AUDIT

Section 11.61. The Office of the State Auditor shall conduct a performance audit of the Division of Services for the Blind in the Department of Human Resources, to include the Governor Morehead School. The performance audit shall address, but not be limited to, the financial management of the Division. The Office of the State Auditor shall

submit the results of the performance audit to the cochairs of the Senate and House Appropriations Subcommittees on Human Resources by January 1, 1998.

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

SERVICES FOR BLIND/EXTENDED SERVICE PROVIDER POSITIONS

Section 11.62. Of the funds appropriated in this act to the Department of Human Resources, Division of Services for the Blind, the sum of two hundred fifty thousand dollars (\$250,000) in each fiscal year of the 1997-99 biennium shall be used to maintain extended service provider positions at local, nonprofit supported employment programs.

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

GOVERNOR MOREHEAD SCHOOL/TEXTBOOK FUNDS

Section 11.63. Of the funds appropriated in this act to the Division of Services for the Blind, the sum of twelve thousand four hundred eight dollars (\$12,408) for the 1997-98 fiscal year and the sum of twelve thousand four hundred eight dollars (\$12,408) for the 1998-99 fiscal year shall be used to increase funding for textbooks or for adaptive technology, or both, for student education at the Governor Morehead School. Funds for this purpose shall be part of the Division's continuation budget request.

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

REIMBURSEMENT AND COMPENSATION OF MEMBERS OF THE NORTH CAROLINA VOCATIONAL REHABILITATION ADVISORY COUNCIL, THE STATEWIDE INDEPENDENT LIVING COUNCIL, AND THE COMMISSION FOR THE BLIND

Section 11.64. Notwithstanding G.S. 138-5(a)(1), those members of the North Carolina Vocational Rehabilitation Advisory Council, the Statewide Independent Living Council, and the Commission for the Blind who are unemployed or who shall forfeit wages from other employment to attend council or commission meetings or to perform related duties, may receive compensation not to exceed fifty dollars (\$50.00) a day for attending these meetings or for performing related duties, as authorized in sections 105 and 705 of P.L. 102-569, the Rehabilitation Act of 1973, 42 U.S.C. § 701, et seq., as amended. This compensation is instead of the compensation specified in G.S. 138-5(a)(1). Reimbursement for subsistence and travel expenses is as specified in G.S. 138-5.

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

CHILD CARE SUBSIDIES

Section 11.65. (a) The maximum gross annual income for initial eligibility, adjusted biennially, for subsidized child care services shall be seventy-five percent (75%) of the State median income, adjusted for family size.

(b) Parents who receive child care subsidy to work, look for work, attend work-related training or education activities, or meet the special developmental needs of their child, shall share in the cost of child care. No fees shall be charged to the client when child care services are provided to the individuals in the following circumstances:

- (1) When children are receiving child care services in conjunction with protective services as described in 10 NCAC 35E.0106, up to a maximum of 12 months from the time protective services are initiated;
 - (2) When child care services are provided as a support to a child receiving Child Welfare Services as described in the North Carolina Division of Social Services Family Services Manual, Volume 1, Chapter II; or
 - (3) When a child with no income is living with someone other than the child's biological or adoptive parent or is living with someone who does not have court-ordered financial responsibility.
- (c) Fees shall be established based on a percent of gross family income and adjusted for family size. Fees shall be determined as follows:

FAMILY SIZE	PERCENT OF GROSS FAMILY INCOME
1-3	9%
4-5	8%
6 or more	7%

Local departments of social services shall apply this new fee schedule to recipients at the next eligibility review on or after the effective date of this section.

(d) Rules for the monthly schedule of payments for the purchase of child care services for low-income children shall be established by the Social Services Commission pursuant to G.S. 143-153(8)(a) in accordance with the following requirements:

- (1) For child care facilities as defined in G.S. 110-86(3) in which fewer than fifty percent (50%) of the enrollees are subsidized by State or federal funds, the State shall continue to pay the same fee paid by private paying parents for a child in the same age group in the same facility.
- (2) "AA" licensed centers which are certified as developmental day centers by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services receive one hundred ten percent (110%) of the market rate or the rate they charge private paying parents, whichever is lower, for typically developing children. Developmental day centers may be reimbursed up to their allowable costs as determined by the Division's cost finding process.
- (3) The monthly schedule of payments for the purchase of child care services for low-income children from providers who have fifty percent (50%) or more children receiving child care subsidized with State or federal funds include:
 - a. Provision of payment rates for child care that are tied to the provider's regulatory status as follows:

1. Registered homes and "A" licensed centers receive the market rate or the rate they charge their private paying parents, whichever is lower;
 2. "AA" licensed centers receive one hundred ten percent (110%) of the market rate or the rate they charge their private paying parents, whichever is lower; and
 3. Unregistered providers receive fifty percent (50%) of the market rate or the rate they charge their private paying parents, whichever is lower.
- b. Provision of payment rates for child care providers in counties who do not have at least 75 children in each age group for center-based and home-based care as follows:
1. Payment rates shall be set at the statewide market rate for registered homes and "A" licensed centers.
 2. If it can be demonstrated that the application of the statewide market rate to a county with fewer than 75 children in each age group is lower than the county market rate and would inhibit the ability of the county to purchase child care for low-income children, then the county market rate may be applied.

(c) Payment rates described in sub-subdivision (3)a. of subsection (d) of this section shall be applied to all licensed child care centers, including Head Start Wrap Around, that have fifty percent (50%) or more of enrolled children receiving child care subsidies, and to registered family child care homes and unregulated providers that enroll subsidized children.

(f) A market rate shall be calculated for facilities and homes for each county and for each age group or age category of enrollees and shall be representative of fees charged to unsubsidized private paying parents for each age group of enrollees within the county. The Division of Child Development shall also calculate a statewide market rate for each age category. The Division of Child Development may also calculate regional market rates for each age group and age category.

(g) Facilities licensed pursuant to Article 7 of Chapter 110 of the General Statutes may participate in the program that provides for the purchase of care in child care facilities for minor children of needy families. No separate licensing requirements shall be used to select facilities to participate. In addition, child care facilities shall be required to meet any additional applicable requirements of federal law or regulations.

Child care homes as defined in G.S. 110-86(4) from which the State purchases child care services shall meet the standards established by the Child Day Care Commission pursuant to G.S. 110-101 and G.S. 110-105.1 and any additional requirements of State law or federal law or regulations. Child care arrangements exempt from State regulation pursuant to Article 7 of Chapter 110 of the General Statutes shall meet the requirements established by other State law and by the Social Services Commission.

County departments of social services or other local contracting agencies shall not use a provider's failure to comply with requirements in addition to those specified in this subsection as a condition for reducing the provider's subsidized child care rate.

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

CHILD CARE ALLOCATION FORMULA

Section 11.66. (a) To simplify current child care allocation methodology and more equitably distribute State child care funds, the Department of Human Resources shall apply the following allocation formula to all noncategorical federal and State child care funds used to pay the costs of necessary child care for minor children of needy families:

- (1) One-third of budgeted funds shall be distributed according to the county's population in relation to the total population of the State;
- (2) One-third of the budgeted funds shall be distributed according to the number of children under 6 years of age in a county who are living in families whose income is below the State poverty level in relation to the total number of children under 6 years of age in the State in families whose income is below the poverty level; and
- (3) One-third of budgeted funds shall be distributed according to the number of working mothers with children under 6 years of age in a county in relation to the total number of working mothers with children under 6 years of age in the State.

(b) A county's initial allocation shall not be less than that county's total expenditures for both FSA and non-FSA child care in fiscal year 1995-96.

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

CHILD CARE FUNDS MATCHING REQUIREMENT

Section 11.67. No local matching funds may be required by the Department of Human Resources as a condition of any locality's receiving any State child care funds appropriated by this act unless federal law requires such a match.

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

CHILD DAY CARE REVOLVING LOAN FUND

Section 11.68. Notwithstanding any law to the contrary, funds budgeted for the Child Day Care Revolving Loan Fund may be transferred to and invested by the financial institution contracted to operate the Fund. The principal and any income to the Fund may be used to make loans, reduce loan interest to borrowers, serve as collateral for borrowers, pay the contractor's cost of operating the Fund, or to pay the Department's cost of administering the program.

Requested by: Representatives Gardner, Cansler, Clary

ADULT CARE HOME BED VACANCIES

Section 11.69. (a) The General Assembly finds:

- (1) That the cost of care for seventy percent (70%) of adult care home residents is paid by the State and the counties;

- (2) That the cost to the State for care for residents in adult care homes is substantial, and high vacancy rates in adult care homes further increases the cost of care;
 - (3) That the proliferation of unnecessary adult care home beds results in costly duplication and underuse of facilities and may result in lower quality service; and
 - (4) That it is necessary to protect the general welfare and lives, health, and property of the people of the State to slow temporarily licensure of adult care home beds pending a finding of a more definitive means of developing and maintaining the quality of adult care home beds so that unnecessary costs to the State do not result, adult care home beds are available where needed, and that individuals who need care in adult care homes may have access to quality care.
- (b) From the effective date of this act until 12 months after the effective date of this act, the Department of Health and Human Services shall not approve the addition of any adult care home beds for any type home or facility in the State, except as follows:
- (1) Plans submitted for approval prior to May 18, 1997, may continue to be processed for approval;
 - (2) Plans submitted for approval subsequent to May 18, 1997, may be processed for approval if the individual or organization submitting the plan demonstrates to the Department that on or before August 25, 1997, the individual or organization purchased real property, entered into a contract to purchase or obtain an option to purchase real property, entered into a binding real property lease arrangement, or has otherwise made a binding financial commitment for the purpose of establishing or expanding an adult care home facility. An owner of real property who entered into a contract prior to August 25, 1997, for the sale of an existing building together with land zoned for the development of not more than 50 adult care home beds with a proposed purchaser who failed to consummate the transaction may, after August 25, 1997, sell the property to another purchaser and the Department may process and approve plans submitted by the purchaser for the development of not more than 50 adult care home beds. It shall be the responsibility of the applicant to establish, to the satisfaction of the Department, that any of these conditions have been met;
 - (3) Adult care home beds in facilities for the developmentally disabled with six beds or less which are or would be licensed under G.S. 131D or G.S. 122C may continue to be approved;
 - (4) If the Department determines that the vacancy rate of available adult care home beds in a county is fifteen percent (15%) or less of the total number of available beds in the county as of the effective date of this act and no new beds have been approved or licensed in the county or plans submitted for approval in accordance with subdivision (1) or (2) of this section which would raise the vacancy rate above fifteen percent (15%) in the county,

then the Department may accept and approve the addition of beds in that county; or

- (5) If a county board of commissioners determines that a substantial need exists for the addition of adult care home beds in that county, the board of commissioners may request that a specified number of additional beds be licensed for development in their county. In making their determination, the board of commissioners shall give consideration to meeting the needs of Special Assistance clients. The Department may approve licensure of the additional beds from the first facility that files for licensure and subsequently meets the licensure requirements.

(c) The Department shall study the issue of high vacancy rates for adult care home beds, including the impact of those vacancy rates on cost-effectiveness and quality of care for the occupants of adult care homes and other facilities, and make recommendations with respect to the need for establishing new procedures for determining the State and county reimbursement amounts for Special Assistance recipients, the need for the establishment of a certificate of need type process for adult care homes, or any changes needed in the certificate of need process for any other facilities to prevent high vacancy rates for adult care home beds. The Department also shall study the issue of the availability of beds for Special Assistance clients and how recent new bed development has impacted the availability, quality, and cost of beds available for those clients. The Department shall report the results of its study, along with the recommendations required by this section and any other proposals and recommendations, to the Chairs of the House and Senate Appropriations Subcommittees on Human Resources by February 1, 1998. The Department's report shall include any observations or recommendations it deems appropriate with respect to correlations between the vacancy rates and the condition or age of facilities.

(d) This section shall not apply to adult care home beds which are part of a continuing care facility subject to the jurisdiction of or licensed by the Department of Insurance pursuant to Article 64, Chapter 58 of the General Statutes.

(e) This section is effective when this act becomes law.

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

ADULT CARE HOMES REIMBURSEMENT RATE/ADULT CARE HOMES ALLOCATION OF NONFEDERAL COST OF MEDICAID PAYMENTS

Section 11.70. (a) The eligibility of Special Assistance recipients residing in adult care homes on August 1, 1995, shall not be affected by an income reduction in the Special Assistance eligibility criteria resulting from adoption of the Rate Setting Methodology Report and Related Services, providing these recipients are otherwise eligible. The maximum monthly rate for these residents in adult care home facilities shall be nine hundred seventy-five dollars (\$975.00) per month for ambulatory residents and one thousand seventeen dollars (\$1,017) per month for semiambulatory residents.

(b) Effective August 1, 1995, the State shall pay fifty percent (50%) and the county shall pay fifty percent (50%) of the nonfederal costs of Medicaid services paid to adult care home facilities. As Medicaid personal care requirements increase, the county matching share shall be capped until it equals fifteen percent (15%) of the nonfederal Medicaid personal care requirements.

(c) Effective July 1, 1997, the maximum monthly rate for residents in adult care home facilities shall be eight hundred ninety-three dollars (\$893.00) per month per resident.

(d) Effective July 1, 1998, the maximum monthly rate for residents in adult care home facilities shall be nine hundred fifteen dollars (\$915.00) per month per resident.

Requested by: Representatives Gardner, Cansler, Clary

ADULT DAY HEALTH CARE MEDICAID WAIVER/STUDY AND COMPARISON OF ELIGIBILITY REQUIREMENTS

Section 11.71. (a) The Division of Medical Assistance, Department of Human Resources, shall consider alternatives for providing adult day health care services, including requesting a waiver from the Health Care Financing Administration to provide adult day health care services to Medicaid recipients who are not participating in a community alternative program. The Division shall report to the Chairs of the House and Senate Appropriations Subcommittees on Human Resources by May 1, 1998, on its progress in providing adult day health care services through Medicaid. The Division of Medical Assistance shall not implement this service until it has reported to the Chairs of the House and Senate Appropriations Subcommittees on Human Resources on the impact of providing this service on the provision of long-term care services for Medicaid recipients and the fiscal impact of adding this additional service.

(b) The Division of Medical Assistance and the Division of Aging shall study the eligibility criteria, including spenddown requirements, for Medicaid coverage for institutional and in-home care services, including a comparison of the requirements, the reasons for differences in requirements, and any inequities identified in the requirements which may cause recipients to choose institutionalization over in-home care. The Division of Medical Assistance and the Division of Aging shall report the findings of the study, along with any recommendations for changing the requirements and the fiscal impact of implementing the study's recommendations, to the House and Senate Appropriations Subcommittees on Human Resources and the North Carolina Study Commission on Aging by March 1, 1998.

Requested by: Representatives Gardner, Cansler, Clary

ADULT CARE HOME STAFFING FOR PERSONAL CARE SERVICES

Section 11.72. (a) Adult care homes with a capacity of 13 or more beds shall provide adequate staff to meet the personal care needs of the home's residents. As used in this section, the term:

- (1) "Adequate staff" means personal care staff shall be sufficient to meet the needs of each resident as specified in the resident's care plan. At all times there shall be sufficient staff to provide an

average of one hour of personal care services per resident during each 24-hour period. In addition to the average of one hour of personal care services per resident, the facility shall provide staff to meet the needs of the facility's heavy care residents. Staffing patterns may be flexible to allow for peak periods of resident care needs or periods of low resident care needs, but there shall always be sufficient staff to provide for the safety and supervision of all residents at all times.

- (2) "Heavy care resident" means an individual residing in an adult care home who, according to Medicaid criteria, needs extensive assistance or is totally dependent on another person for eating, toileting, or both eating and toileting, or any other type of heavy care resident as defined by Medicaid; and
- (3) "Personal care service" means any task identified by Medicaid which has the primary purpose of providing needed assistance to residents.

If the Department of Health and Human Services finds that an adult care home has not provided adequate staff to meet the personal care needs required by this section, then the Department shall withhold payment for personal care services until the staffing requirements of this section have been met.

(b) This section becomes effective October 1, 1997, and expires June 30, 1998.

Requested by: Representatives Gardner, Cansler, Clary, Earle

STUDY OF ALTERNATE LIVING ARRANGEMENTS

Section 11.73. (a) The Department of Human Resources shall study ways to provide assistance to low-income elderly or disabled adults who are eligible for Medicaid or Special Assistance under G.S. 108A-41(b) for the purpose of supporting a range of living arrangements. The Divisions of Medical Assistance, Social Services, Facility Services, and Aging, as well as other appropriate divisions within the Department of Human Resources, shall participate in the study. The study shall include, but need not be limited to, a review of and recommendations on the following:

- (1) The types of living arrangements that can support the daily care needs of individuals who are otherwise eligible for Medicaid or Special Assistance;
- (2) A payment structure based on living arrangement, including by type of facility;
- (3) Criteria to determine the appropriateness of care;
- (4) The impact of alternate living arrangements on Medicaid eligibility and costs, including any needed changes that would promote cost efficiencies;
- (5) A case management system to support appropriate placements;
- (6) The costs of providing Special Assistance to support a range of living arrangements; and
- (7) The reasons an individual chooses to live in an adult care home instead of the individual's own home, including the factors that hinder or impede individuals from receiving services needed to

remaining at home or otherwise avoid placement in an adult care home.

(b) The Department shall report its findings and recommendations to the North Carolina Study Commission on Aging, to the Chairs of the House and Senate Appropriations Subcommittees on Human Resources, and to the Fiscal Research Division by May 1, 1998. The report shall include recommendations on whether changes are needed to the Medicaid or the Special Assistance programs to support alternate living arrangements and the costs associated with these changes.

(c) The Department may use funds available to it to support the cost of this study.

Requested by: Senator Martin of Guilford

SPECIAL ADVISOR FOR CHILDREN, FAMILY, AND VOLUNTEERISM

Section 11.75. Notwithstanding G.S. 143-16.3, the Department of Human Resources may transfer funds appropriated to it in this act to the Office of the Governor to fund the position of Special Advisor for Children, Family, and Volunteerism.

PART XIA. HEALTH FROM DEHNR TO DHR/NAME CHANGES

Requested by: Senator Perdue

TRANSFER HEALTH SERVICES TO THE DEPARTMENT OF HUMAN RESOURCES, CHANGE THE NAME OF THE DEPARTMENT OF HUMAN RESOURCES TO THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, CHANGE THE NAME OF THE DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES TO THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, MAKE TECHNICAL AND CONFORMING STATUTORY CHANGES, CHANGE THE TERM "AMBULANCE ATTENDANT" TO "MEDICAL RESPONDER", AND MAKE CHANGES TO THE STATUTES RELATING TO MEDICAL RESPONDERS.

SUBPART 1. TRANSFER AND RESTRUCTURE OF DEPARTMENT OF HUMAN RESOURCES AND DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES.

Section 11A.1. The name of Article 3 of Chapter 143B of the General Statutes reads as rewritten:

"ARTICLE 3.

Department of ~~Human Resources~~ Health and Human Services."

Section 11A.2. G.S. 130A-55.1, 143B-136, 143B-137, 143B-138, and 143B-279.6 are repealed.

Section 11A.3. Part 1 of Article 3 of Chapter 143B of the General Statutes is amended by adding the following new sections:

"§ 143B-136.1. *Department of Health and Human Services -- creation.*

There is created a department to be known as the 'Department of Health and Human Services,' with the organization, duties, functions, and powers defined in this Article and other applicable provisions of law.

"§ 143B-137.1. *Department of Health and Human Services -- duties.*

It shall be the duty of the Department to provide the necessary management, development of policy, and establishment and enforcement of standards for the provision of services in the fields of public and mental health and rehabilitation with the intent to assist all citizens -- as individuals, families, and communities -- to achieve and maintain an adequate level of health, social and economic well-being, and dignity. Whenever possible, the Department shall emphasize preventive measures to avoid or to reduce the need for costly emergency treatments that often result from lack of forethought. The Department shall establish priorities to eliminate those excessive expenses incurred by the State for lack of adequate funding or careful planning of preventive measures.

"§ 143B-138.1. Department of Health and Human Services -- functions and organization.

(a) All functions, powers, duties, and obligations previously vested in the following commissions, boards, councils, committees, or subunits of the Department of Human Resources are transferred to and vested in the Department of Health and Human Services by a Type I transfer, as defined in G.S. 143A-6:

- (1) Division of Aging.
- (2) Division of Services for the Blind.
- (3) Division of Medical Assistance.
- (4) Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.
- (5) Division of Social Services.
- (6) Division of Facility Services.
- (7) Division of Vocational Rehabilitation.
- (8) Division of Youth Services.
- (9) Division of Services for the Deaf and the Blind.
- (10) Office of Economic Opportunity.
- (11) Division of Child Development.
- (12) Office of Rural Health.

(b) All functions, powers, duties, and obligations previously vested in the following commissions, boards, councils, committees, or subunits of the Department of Human Resources are transferred to and vested in the Department of Health and Human Services by a Type II transfer, as defined in G.S. 143A-6:

- (1) Respite Care Program.
- (2) Governor's Advisory Council on Aging.
- (3) Commission for the Blind.
- (4) Professional Advisory Committee.
- (5) Consumer and Advocacy Advisory Committee for the Blind.
- (6) Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services.
- (7) Social Services Commission.
- (8) Child Day Care Commission.
- (9) Medical Care Commission.
- (10) Emergency Medical Services Advisory Council.
- (11) Board of Directors of the Governor Morehead School.
- (12) Board of Directors for the North Carolina Schools for the Deaf.

(13) North Carolina Council for the Hearing Impaired.

(14) North Carolina Council on the Holocaust.

(15) Council on Developmental Disabilities.

(c) The functions, powers, duties, and obligations previously vested in the following commissions, boards, councils, committees, or subunits of the Department of Environment, Health, and Natural Resources are transferred to and vested in the Department of Health and Human Services by a Type I transfer, as defined in G.S. 143A-6:

(1) Division of Dental Health.

(2) State Center for Health Statistics.

(3) Division of Epidemiology.

(4) Division of Health Promotion.

(5) Division of Maternal and Child Health.

(6) Office of Minority Health.

(7) Office of Public Health Nursing.

(8) Division of Laboratory Services.

(9) Office of Local Health Services.

(10) Division of Postmortem Medicolegal Examinations.

(11) Office of Women's Health.

(d) All functions, powers, duties, and obligations previously vested in the following commissions, boards, councils, committees, or subunits of the Department of Environment, Health, and Natural Resources are transferred to and vested in the Department of Health and Human Services by a Type II transfer, as defined in G.S. 143A-6:

(1) Commission for Health Services.

(2) Council on Sickle Cell Syndrome.

(3) Governor's Council on Physical Fitness and Health.

(4) Commission of Anatomy.

(5) Minority Health Advisory Council.

(6) Advisory Committee on Cancer Coordination and Control.

(e) The Department of Health and Human Services is vested with all other functions, powers, duties, and obligations as are conferred by the Constitution and laws of this State."

Section 11A.4. The name of Article 7 of Chapter 143B of the General Statutes reads as rewritten:

"ARTICLE 7.

Department of ~~Environment,~~
~~Health,~~ Environment and Natural
Resources."

Section 11A.5. G.S. 143B-279.2 reads as rewritten:

"§ 143B-279.2. ~~Department of Environment, Health, Environment~~ and Natural Resources — duties.

It shall be the duty of the Department:

(1) To provide for the protection of the environment;

(1a) To administer the State Outer Continental Shelf (OCS) Task Force and coordinate State participation activities in the federal outer continental shelf resource recovery programs as provided under the OCS Lands Act Amendments of 1978 (43 USC §§

1801 et seq.) and the OCS Lands Act Amendments of 1986 (43 USC §§ 1331 et seq.).

- (1b) To provide for the protection of the environment and public health through the regulation of solid waste and hazardous waste management and the administration of environmental health programs.
- (2) ~~To provide for the protection and enhancement of the public health;~~
- (2a) To provide and keep a museum or collection of the natural history of the State and to maintain the North Carolina Biological Survey; and
- (3) To provide for the management of the State's natural resources."

Section 11A.6. G.S. 143B-279.3 as amended by S.L. 1997-286 reads as rewritten:

"§ 143B-279.3. *Department of Environment, Health, and Natural Resources -- structure.*

(a) All functions, powers, duties, and obligations heretofore previously vested in the following subunits of the following departments are hereby transferred to and vested in the Department of Environment, Health, Environment and Natural Resources by a Type I transfer, as defined in G.S. 143A-6:

- (1) Radiation Protection Section, Division of Facility Services, Department of Human Resources.
- (2) ~~Division of Health Services, Department of Human Resources.~~
- (3) ~~State Center for Health Statistics, Department of Human Resources.~~
- (4) Coastal Management Division, Department of Natural Resources and Community Development.
- (5) Environmental Management Division, Department of Natural Resources and Community Development.
- (6) Forest Resources Division, Department of Natural Resources and Community Development.
- (7) Land Resources Division, Department of Natural Resources and Community Development.
- (8) Marine Fisheries Division, Department of Natural Resources and Community Development.
- (9) Parks and Recreation Division, Department of Natural Resources and Community Development.
- (10) Soil and Water Conservation Division, Department of Natural Resources and Community Development.
- (11) Water Resources Division, Department of Natural Resources and Community Development.
- (12) North Carolina Zoological Park, Department of Natural Resources and Community Development.
- (13) Albemarle-Pamlico Study.
- (14) Office of Marine Affairs, Department of Administration.
- (15) Environmental Health Section, Division of Health Services, Department of Human Resources.

(b) All functions, powers, duties, and obligations ~~heretofore~~ previously vested in the following commissions, boards, councils, and committees of the following departments are hereby transferred to and vested in the Department of ~~Environment, Health, Environment~~ and Natural Resources by a Type II transfer, as defined in G.S. 143A-6:

- (1) Repealed by Session Laws 1993, c. 501, s. 27.
- (2) Radiation Protection Commission, Department of Human Resources.
- (3) ~~Commission for Health Services, Department of Human Resources.~~
- (4) Water Treatment Facility Operators Board of Certification, Department of Human Resources.
- (5) ~~Council on Sickle Cell Syndrome, Department of Human Resources.~~
- (6) ~~Perinatal Health Care Programs Advisory Council, Department of Human Resources.~~
- (7) ~~Governor's Council on Physical Fitness and Health, Department of Human Resources.~~
- (8) ~~Commission of Anatomy, Department of Human Resources.~~
- (9) Coastal Resources Commission, Department of Natural Resources and Community Development.
- (10) Environmental Management Commission, Department of Natural Resources and Community Development.
- (11) Air Quality Council, Department of Natural Resources and Community Development.
- (12) Wastewater Treatment Plant Operators Certification Commission, Department of Natural Resources and Community Development.
- (13) Forestry Council, Department of Natural Resources and Community Development.
- (14) North Carolina Mining Commission, Department of Natural Resources and Community Development.
- (15) Advisory Committee on Land Records, Department of Natural Resources and Community Development.
- (16) Marine Fisheries Commission, Department of Natural Resources and Community Development.
- (17) Parks and Recreation Council, Department of Natural Resources and Community Development.
- (18) Board of Trustees of the Recreation and Natural Heritage Trust Fund, Department of Natural Resources and Community Development.
- (19) North Carolina Trails Committee, Department of Natural Resources and Community Development.
- (20) Sedimentation Control Commission, Department of Natural Resources and Community Development.
- (21) State Soil and Water Conservation Commission, Department of Natural Resources and Community Development.
- (22) North Carolina Zoological Park Council, Department of Natural Resources and Community Development.

- (c) (1) There is ~~hereby~~ created a division within the environmental area of the Department of ~~Environment, Health, Environment~~ and Natural Resources to be named the Division of Radiation Protection. All functions, powers, duties, and obligations of the Radiation Protection Section of the Division of Facility Services of the Department of Human Resources are transferred in their entirety to the Radiation Protection Division of the Department of ~~Environment, Health, Environment~~ and Natural Resources.
- (2) There is ~~hereby~~ created a division within the environmental area of the Department of ~~Environment, Health, Environment~~ and Natural Resources to be named the Division of Waste Management. All functions, powers, duties, and obligations of the Solid Waste Management Section of the Division of Health Services of the Department of Human Resources are transferred in their entirety to the Division of Waste Management of the Department of ~~Environment, Health, Environment~~ and Natural Resources.
- (3) There is created a division within the environmental areas of the Department of Environment and Natural Resources to be named the Division of Environmental Health. All functions, powers, duties and obligations of the Division of Environmental Health of the Department of Environment, Health, and Natural Resources are transferred in their entirety to the Division of Environmental Health, Department of Environment and Natural Resources.

(d) The Department of ~~Environment, Health, Environment~~ and Natural Resources is vested with all other functions, powers, duties, and obligations as are conferred by the Constitution and laws of this State."

SUBPART 2. TECHNICAL AND CONFORMING STATUTORY CHANGES.

Section 11A.7. G.S. 7A-343.1 reads as rewritten:

"§ 7A-343.1. *Distribution of copies of the appellate division reports.*

The Administrative Officer of the Courts shall, at the State's expense distribute such number of copies of the appellate division reports to federal, State departments and agencies, and to educational institutions of instruction, as follows:

Governor, Office of the	1
Lieutenant Governor, Office of the	1
Secretary of State, Department of the	2
State Auditor, Department of the	1
Treasurer, Department of the State	1
Superintendent of Public Instruction	1
Office of the Attorney General	11
State Bureau of Investigation	1
Agriculture, Department of	1
Labor, Department of	1
Insurance, Department of	1
Budget Bureau, Department of Administration	1

Property Control, Department of Administration	1
State Planning, Department of Administration	1
Board of Environment, Health, Environment and	
Natural Resources Resources, Department of	1
Revenue, Department of	1
<u>Board of Health and Human Resources Services,</u>	
<u>Department of</u>	1
Commission for the Blind	1
Board of Transportation Transportation, Department of	1
Motor Vehicles, Division of	1
Utilities Commission	8
Industrial Commission	11
State Personnel Commission	1
Office of State Personnel	1
Office of Administrative Hearings	2
Community Colleges, Department of	38
Employment Security Commission	1
Commission of Correction	1
Parole Commission	1
Archives and History, Division of	1
Crime Control and Public Safety, Department of	2
Department of Cultural Resources Resources, Department of	3
Legislative Building Library	2
Justices of the Supreme Court	1 ea.
Judges of the Court of Appeals	1 ea.
Judges of the Superior Court	1 ea.
Clerks of the Superior Court	1 ea.
District Attorneys	1 ea.
Emergency and Special Judges of the Superior Court	1 ea.
Supreme Court Library	AS MANY AS REQUESTED
Appellate Division Reporter	1
University of North Carolina, Chapel Hill	71
University of North Carolina, Charlotte	1
University of North Carolina, Greensboro	1
University of North Carolina, Asheville	1
North Carolina State University, Raleigh	1
Appalachian State University	1
East Carolina University	1
Fayetteville State University	1
North Carolina Central University	17
Western Carolina University	1
Duke University	17
Davidson College	2
Wake Forest University	25
Lenoir Rhyne College	1
Elon College	1
Campbell University	25
Federal, Out-of-State and Foreign Secretary of State	1
Secretary of Defense	1

Secretary of Health, Education and Welfare-	1
Secretary of Housing and Urban Development	1
Secretary of Transportation	1
Attorney General	1
Department of Justice	1
Internal Revenue Service	1
Veterans' Administration	1
Library of Congress	5
Federal Judges resident in North Carolina	1 ea.
Marshal of the United States Supreme Court	1
Federal District Attorneys resident in North Carolina	1 ea.
Federal Clerks of Court resident in North Carolina	1 ea.
Supreme Court Library exchange list	1

Each justice of the Supreme Court and judge of the Court of Appeals shall receive for his private use, one complete and up-to-date set of the appellate division reports. The copies of reports furnished each justice or judge as set out in the table above may be retained by him personally to enable him to keep up-to-date his personal set of reports."

Section 11A.8. G.S. 20-4.01(3b) reads as rewritten:

"(3b) Chemical Analyst. -- A person granted a permit by the Department of ~~Environment, Health, and Natural Resources~~ Health and Human Services under G.S. 20-139.1 to perform chemical analyses."

Section 11A.9. G.S. 20-16.5(j) reads as rewritten:

"(j) Costs. -- Unless the magistrate or judge orders the revocation rescinded, a person whose license is revoked under this section must pay a fee of fifty dollars (\$50.00) as costs for the action before the person's license may be returned under subsection (h). The costs collected under this section shall be credited to the General Fund. Fifty percent (50%) of the costs collected shall be used to fund a statewide chemical alcohol testing program administered by the Injury Control Section of the Department of ~~Environment, Health, and Natural Resources~~ Health and Human Services."

Section 11A.10. G.S. 20-139.1 reads as rewritten:

"§ 20-139.1. *Procedures governing chemical analyses; admissibility; evidentiary provisions; controlled-drinking programs.*

(a) Chemical Analysis Admissible. -- In any implied-consent offense under G.S. 20-16.2, a person's alcohol concentration as shown by a chemical analysis is admissible in evidence. This section does not limit the introduction of other competent evidence as to a defendant's alcohol concentration, including other chemical tests.

(b) Approval of Valid Test Methods; Licensing Chemical Analysts. -- A chemical analysis, to be valid, ~~must~~ shall be performed in accordance with the provisions of this section. The chemical analysis ~~must~~ shall be performed according to methods approved by the Commission for Health Services by an individual possessing a current permit issued by the Department of ~~Environment, Health, and Natural Resources~~ Health and Human Services for that type of chemical analysis. The Commission for Health Services ~~is authorized to~~ may adopt regulations rules approving

satisfactory methods or techniques for performing chemical analyses, and the Department of ~~Environment, Health, and Natural Resources~~ Health and Human Services ~~is authorized to may~~ ascertain the qualifications and competence of individuals to conduct particular chemical analyses. The Department may issue permits to conduct chemical analyses to individuals it finds qualified subject to periodic renewal, termination, and revocation of the permit in the Department's discretion.

(b1) When Officer May Perform Chemical Analysis. -- Except as provided in this subsection, a chemical analysis is not valid in any case in which it is performed by an arresting officer or by a charging officer under the terms of G.S. 20-16.2. A chemical analysis of the breath may be performed by an arresting officer or by a charging officer when both of the following apply:

- (1) The officer possesses a current permit issued by the Department of ~~Environment, Health, and Natural Resources~~ Health and Human Services for the type of chemical analysis.
- (2) The officer performs the chemical analysis by using an automated instrument that prints the results of the analysis.

(b2) Breath Analysis Results Inadmissible if Preventive Maintenance Not Performed. -- Notwithstanding the provisions of subsection (b), the results of a chemical analysis of a person's breath performed in accordance with this section are not admissible in evidence if:

- (1) The defendant objects to the introduction into evidence of the results of the chemical analysis of his the defendant's breath; and
- (2) The defendant demonstrates that, with respect to the instrument used to ~~analyse~~ analyze his the defendant's breath, preventive maintenance procedures required by the regulations of the Commission for Health Services had not been performed within the time limits prescribed by those regulations.

(b3) Sequential Breath Tests Required. -- By January 1, 1985, the regulations of the Commission for Health Services governing the administration of chemical analyses of the breath ~~must~~ shall require the testing of at least duplicate sequential breath samples. Those regulations must provide:

- (1) A specification as to the minimum observation period before collection of the first breath sample and the time requirements as to collection of second and subsequent samples.
- (2) That the test results may only be used to prove a person's particular alcohol concentration if:
 - a. The pair of readings employed are from consecutively administered tests; and
 - b. The readings do not differ from each other by an alcohol concentration greater than 0.02.
- (3) That when a pair of analyses meets the requirements of subdivision (2), only the lower of the two readings may be used by the State as proof of a person's alcohol concentration in any court or administrative proceeding.

A person's willful refusal to give the sequential breath samples necessary to constitute a valid chemical analysis is a willful refusal under G.S. 20-16.2(c).

A person's willful refusal to give the second or subsequent breath sample shall make the result of the first breath sample, or the result of the sample providing the lowest alcohol concentration if more than one breath sample is provided, admissible in any judicial or administrative hearing for any relevant purpose, including the establishment that a person had a particular alcohol concentration for conviction of an offense involving impaired driving.

(b4) **Introducing Routine Records Kept as Part of Breath-Testing Program.** -- In civil and criminal proceedings, any party may introduce, without further authentication, simulator logs and logs for other devices used to verify a breath-testing instrument, certificates and other records concerning the check of ampoules and of simulator stock solution and the stock solution used in any other equilibration device, preventive maintenance records, and other records that are routinely kept concerning the maintenance and operation of breath-testing instruments. -- In a criminal case, however, this subsection does not authorize the State to introduce records to prove the results of a chemical analysis of the defendant or of any validation test of the instrument that is conducted during that chemical analysis.

(c) **Withdrawal of Blood for Chemical Analysis.** -- When a blood test is specified as the type of chemical analysis by the charging officer, only a physician, registered nurse, or other qualified person may withdraw the blood sample. If the person withdrawing the blood requests written confirmation of the charging officer's request for the withdrawal of blood, the officer must shall furnish it before blood is withdrawn. When blood is withdrawn pursuant to a charging officer's request, neither the person withdrawing the blood nor any hospital, laboratory, or other institution, person, firm, or corporation employing him, that person, or contracting for the service of withdrawing blood, may be held criminally or civilly liable by reason of withdrawing that blood, except that there is no immunity from liability for negligent acts or omissions.

(d) **Right to Additional Test.** -- A person who submits to a chemical analysis may have a qualified person of his own choosing administer an additional chemical test or tests, or have a qualified person withdraw a blood sample for later chemical testing by a qualified person of his own choosing. Any law-enforcement officer having in his charge any person who has submitted to a chemical analysis must shall assist the person in contacting someone to administer the additional testing or to withdraw blood, and must shall allow access to the person for that purpose. The failure or inability of the person who submitted to a chemical analysis to obtain any additional test or to withdraw blood does not preclude the admission of evidence relating to the chemical analysis.

(e) **Recording Results of Chemical Analysis of Breath.** -- The chemical analyst who administers a test of a person's breath must shall record the following information after making any chemical analysis:

- (1) The alcohol concentration or concentrations revealed by the chemical analysis.
- (2) The time of the collection of the breath sample or samples used in the chemical analysis.

A copy of the record of this information ~~must~~ shall be furnished to the person submitting to the chemical analysis, or to his attorney, before any trial or proceeding in which the results of the chemical analysis may be used.

(e1) Use of Chemical Analyst's Affidavit in District Court. -- An affidavit by a chemical analyst sworn to and properly executed before an official authorized to administer oaths is admissible in evidence without further authentication in any hearing or trial in the District Court Division of the General Court of Justice with respect to the following matters:

- (1) The alcohol concentration or concentrations of a person given a chemical analysis and who is involved in the hearing or trial.
- (2) The time of the collection of the blood or breath sample or samples for the chemical analysis.
- (3) The type of chemical analysis administered and the procedures followed.
- (4) The type and status of any permit issued by the Department of ~~Environment, Health, and Natural Resources~~ Health and Human Services that ~~he~~ the analyst held on the date ~~he~~ the analyst performed the chemical analysis in question.
- (5) If the chemical analysis is performed on a breath-testing instrument for which regulations adopted pursuant to subsection (b) require preventive maintenance, the date the most recent preventive maintenance procedures were performed on the breath-testing instrument used, as shown on the maintenance records for that instrument.

The Department of ~~Environment, Health, and Natural Resources~~ must Health and Human Services shall develop a form for use by chemical analysts in making this affidavit. If any person who submitted to a chemical analysis desires that a chemical analyst personally testify in the hearing or trial in the District Court Division, ~~he~~ the person may subpoena the chemical analyst and examine him as if he were an adverse witness.

(f) Evidence of Refusal Admissible. -- If any person charged with an implied-consent offense refuses to submit to a chemical analysis, evidence of that refusal is admissible in any criminal action against him for an implied-consent offense under G.S. 20-16.2.

(g) Controlled-Drinking Programs. -- The Department of ~~Environment, Health, and Natural Resources~~ is empowered to make regulations Health and Human Services may adopt rules concerning the ingestion of controlled amounts of alcohol by individuals submitting to chemical testing as a part of scientific, experimental, educational, or demonstration programs. These regulations ~~must~~ shall prescribe procedures consistent with controlling federal law governing the acquisition, transportation, possession, storage, administration, and disposition of alcohol intended for use in the programs. Any person in charge of a controlled-drinking program who acquires alcohol under these regulations must keep records accounting for the disposition of

all alcohol acquired, and the records must at all reasonable times be available for inspection upon the request of any federal, State, or local law-enforcement officer with jurisdiction over the laws relating to control of alcohol. A controlled-drinking program exclusively using lawfully purchased alcoholic beverages in places in which they may be lawfully possessed, however, need not comply with the record-keeping requirements of the regulations authorized by this subsection. All acts pursuant to the regulations reasonably done in furtherance of bona fide objectives of a controlled-drinking program authorized by the regulations are lawful notwithstanding the provisions of any other general or local statute, regulation, or ordinance controlling alcohol."

Section 11A.11. G.S. 35A-1101 reads as rewritten:

"§ 35A-1101. *Definitions.*

When used in this Subchapter:

- (1) 'Autism' means a physical disorder of the brain which causes disturbances in the developmental rate of physical, social, and language skills; abnormal responses to sensations; absence of or delay in speech or language; or abnormal ways of relating to people, objects, and events. Autism occurs sometimes by itself and sometimes in conjunction with other brain-functioning disorders.
- (2) 'Cerebral palsy' means a muscle dysfunction, characterized by impairment of movement, often combined with speech impairment, and caused by abnormality of or damage to the brain.
- (3) 'Clerk' means the clerk of superior court.
- (4) 'Designated agency' means the State or local human resources services agency designated by the clerk in his the clerk's order to prepare, cause to be prepared, or assemble a multidisciplinary evaluation and to perform other functions as the clerk may order. A designated agency includes, without limitation, State, local, regional, or area mental health, mental retardation, vocational rehabilitation, public health, social service, and developmental disabilities agencies, and diagnostic evaluation centers.
- (5) 'Epilepsy' means a group of neurological conditions characterized by abnormal electrical-chemical discharge in the brain. This discharge is manifested in various forms of physical activity called seizures, which range from momentary lapses of consciousness to convulsive movements.
- (6) 'Guardian ad litem' means a guardian appointed pursuant to G.S. 1A-1, Rule 17, Rules of Civil Procedure.
- (7) 'Incompetent adult' means an adult or emancipated minor who lacks sufficient capacity to manage his the adult's own affairs or to make or communicate important decisions concerning his the adult's person, family, or property whether such the lack of capacity is due to mental illness, mental retardation, epilepsy, cerebral palsy, autism, inebriety, senility, disease, injury, or similar cause or condition.

- (8) 'Incompetent child' means a minor who is at least 17 1/2 years of age and who, other than by reason of his minority, lacks sufficient capacity to make or communicate important decisions concerning his the child's person, family, or property whether such the lack of capacity is due to mental illness, mental retardation, epilepsy, cerebral palsy, autism, inebriety, disease, injury, or similar cause or condition.
- (9) 'Indigent' means ~~that a person is~~ unable to pay for legal representation and other necessary expenses of a proceeding brought under this Subchapter.
- (10) 'Inebriety' means ~~the condition of any person who habitually, whether continuously or periodically, indulges in the habitual use of alcoholic beverages, narcotics, alcohol or drugs to such an extent as to stupefy his mind and render him rendering a person incompetent to transact ordinary business with safety to his concerning the person's estate; or who renders himself, by reason of the use of alcoholic beverages, narcotics, or drugs, estate, dangerous to person or property; or who, by the frequent use of alcoholic beverages, narcotics, or drugs, renders himself property, cruel and intolerable to his family, or fails from such cause unable to provide his family with reasonable necessities of life, for family.~~
- (11) 'Interim guardian' means a guardian, appointed prior to adjudication of incompetence and for a temporary period, for a respondent person who requires immediate intervention to address conditions that constitute imminent or foreseeable risk of harm to his the person's physical well-being or to his the person's estate.
- (12) 'Mental illness' means an illness that so lessens the capacity of the a person to use self-control, judgment, and discretion in the conduct of his the person's affairs and social relations as to make it necessary or advisable for him the person to be under treatment, care, supervision, guidance, or control. The term 'mental illness' encompasses 'mental disease', 'mental disorder', 'lunacy', 'unsoundness of mind', and 'insanity'.
- (13) 'Mental retardation' means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested before age 22.
- (14) 'Multidisciplinary evaluation' means an evaluation that contains current medical, psychological, and social work evaluations as directed by the clerk and that may contain include current evaluations by professionals in other disciplines, including without limitation education, vocational rehabilitation, occupational therapy, vocational therapy, psychiatry, speech-and-hearing, and communications disorders. The evaluation is current if made not more than one year from the date on which it is presented to or considered by the court. The evaluation shall set forth the nature and extent of the disability and recommend a guardianship plan and program.

- (15) 'Respondent' means a person who is alleged to be incompetent in a proceeding under this Subchapter.
- (16) 'Treatment facility' has the same meaning as 'facility' in G.S. 122C-3(14), and includes group homes, halfway houses, and other community-based residential facilities.
- (17) 'Ward' means a person who has been adjudicated incompetent or an adult or minor for whom a guardian has been appointed by a court of competent jurisdiction."

Section 11A.12. G.S. 35A-1105 reads as rewritten:

"§ 35A-1105. *Petition before clerk.*

A verified petition for the adjudication of incompetence of an adult, or of a minor who is within six months of reaching majority, may be filed with the clerk by any person, including any State or local human resources services agency through its authorized representative."

Section 11A.13. G.S. 35A-1202 reads as rewritten:

"§ 35A-1202. *Definitions.*

When used in this Subchapter, unless a contrary intent is indicated or the context requires otherwise:

- (1) ~~The term 'accounting' refers to~~ 'Accounting' means the financial or status reports filed with the clerk, designated agency, respondent, or other person or party with whom such reports are required to be filed.
- (2) ~~The term 'clerk'~~ 'Clerk' means the clerk of superior court.
- (3) ~~The term 'designated agency'~~ 'Designated agency' means the State or local human resources services agency designated by the clerk in his an order to prepare, cause to be prepared, or assemble a multidisciplinary evaluation and to perform other functions as the clerk may order. A designated agency includes, without limitation, State, local, regional or area mental health, mental retardation, vocational rehabilitation, public health, social service, and developmental disabilities agencies, and diagnostic evaluation centers.
- (4) ~~The term 'disinterested public agent'~~ 'Disinterested public agent' means:
 - a. The director or assistant directors of a local human resources services agency, or
 - b. An adult officer, agent, or employee of a State human resources services agency.

The fact that a disinterested public agent is employed by a State or local human resources services agency that provides financial assistance, services, or treatment to a ward does not disqualify that person from being appointed as guardian.

- (5) ~~The term 'estate'~~ 'Estate' means any interest in real property, choses in action, intangible personal property, and tangible personal property, and includes any interest in joint accounts or jointly held property.
- (6) ~~The term 'financial report'~~ 'Financial report' means the report filed by the guardian concerning all financial transactions, including receipts and expenditures of the ward's money, sale of

- the ward's property, or other transactions involving the ward's property.
- (7) ~~The term 'general guardian'~~ 'General guardian' means a guardian of both the estate and the person.
- (8) ~~The term 'guardian ad litem'~~ 'Guardian ad litem' means a guardian appointed pursuant to G.S. 1A-1, Rule 17, Rules of Civil Procedure.
- (9) ~~The term 'guardian of the estate'~~ 'Guardian of the estate' means a guardian appointed solely for the purpose of managing the property, estate, and business affairs of a ward.
- (10) ~~The term 'guardian of the person'~~ 'Guardian of the person' means a guardian appointed solely for the purpose of performing duties relating to the care, custody, and control of a ward.
- (11) ~~The term 'incompetent person'~~ 'Incompetent person' means a person who has been adjudicated to be an 'incompetent adult' or 'incompetent child' as defined in G.S. 35A-1101(7) or (8).
- (12) ~~The term 'minor'~~ 'Minor' means a person who is under the age of 18, is not married, and has not been legally emancipated.
- (13) ~~The term 'multidisciplinary'~~ 'Multidisciplinary evaluation' means an evaluation that contains current medical, psychological, and social work evaluations as directed by the clerk and that may contain current evaluations by professionals in other disciplines, including without limitation education, vocational rehabilitation, occupational therapy, vocational therapy, psychiatry, speech-and-hearing, and communications disorders. The evaluation is current if made not more than one year from the date on which it is presented to or considered by the court. The evaluation shall set forth the nature and extent of the disability and recommend a guardianship plan and program.
- (14) ~~The term 'status'~~ 'Status report' means the report required by G.S. 35A-1242 to be filed by the general guardian or guardian of the person. A status report shall include a report of a recent medical and dental examination of the ward by one or more physicians or dentists, a report on the guardian's performance of ~~his~~ the duties as set forth in this Chapter and in the clerk's order appointing the guardian, and a report on the ward's condition, needs, and development. The clerk may direct that the report contain other or different information. The report may also contain, without limitation, reports of mental health or mental retardation professionals, psychologists, social workers, persons in loco parentis, a member of a multidisciplinary evaluation team, a designated agency, a disinterested public agent or agency, a guardian ad litem, a guardian of the estate, an interim guardian, a successor guardian, an officer, official, employee or agent of the Department of Human Resources, Health and Human Services, or any other interested persons including, if applicable to the ward's situation, group home parents or supervisors, employers, members of the staff of a treatment facility, or foster parents.

- (15) ~~The term 'ward'~~ 'Ward' means a person who has been adjudicated incompetent or an adult or minor for whom a guardian has been appointed by a court of competent jurisdiction."

Section 11A.15. G.S. 35A-1216 reads as rewritten:

"§ 35A-1216. ~~Rule-making power of Secretary of Human Resources.~~ Health and Human Services.

The Secretary of the Department of ~~Human Resources~~ Health and Human Services shall ~~issue~~ adopt rules and regulations for the ~~implementation of~~ concerning the guardianship responsibilities of disinterested public agents. The rules ~~and regulations~~ shall provide, among other things, that disinterested public agents shall undertake or have received training concerning the powers and responsibilities of guardians."

Section 11A.16. G.S. 35A-1221 reads as rewritten:

"§ 35A-1221. *Application before clerk.*

Any person or corporation, including any State or local human resources services agency through its authorized representative, may make application for the appointment of a guardian of the estate for any minor or for the appointment of a guardian of the person or general guardian for any minor who has no natural guardian by filing an application with the clerk.

The application shall set forth, to the extent known:

- (1) The minor's name, date of birth, address, and county of residence;
- (2) The names and addresses of the minor's parents, if living, and of other persons known to have an interest in the application for appointment of a guardian; the name and date of death of the minor's deceased parent or parents;
- (3) The applicant's name, address, county of residence, relationship if any to the minor, and interest in the proceeding;
- (4) If a guardian has been appointed for the minor or custody of the minor has been awarded, a statement of the facts relating thereto and a copy of any guardianship or custody order, if available;
- (5) A general statement of the minor's assets and liabilities with an estimate of the value of any property, including any income and receivables to which he is entitled;
- (6) A statement of the reason or reasons that the appointment of a guardian is sought; whether the applicant seeks the appointment of a guardian of the person, a guardian of the estate, or a general guardian; and whom the applicant recommends or seeks to have appointed as such guardian or guardians; and
- (7) Any other information that will assist the clerk in determining the need for a guardian or in appointing a guardian."

Section 11A.17. G.S. 35A-1239 reads as rewritten:

"§ 35A-1239. ~~Human Resources~~ Health and Human Services bond.

The Secretary of the Department of ~~Human Resources~~ Health and Human Services shall ~~require, require or purchase, purchase in such amounts as he deems adequate and proper,~~ individual or blanket bonds for all disinterested public agents appointed to be guardians, whether they serve as guardians of the estate, guardians of the person, or general guardians, or one blanket

bond covering all such agents, such the bond or bonds to be conditioned upon faithful performance of their duties as guardians and made payable to the State. The premiums shall be paid by the State."

Section 11A.18. G.S. 50-30 reads as rewritten:

"§ 50-30. *Findings; policy; and purpose.*

(a) Findings. -- The General Assembly makes the following findings:

- (1) There is a strong public interest in providing fair, efficient, and swift judicial processes for establishing and enforcing child support obligations. Children are entitled to support from their parents, and court assistance is often required for the establishment and enforcement of parental support obligations. Children who do not receive support from their parents often become financially dependent on the State.
- (2) The State shall have laws that meet the federal requirements on expedited processes for obtaining and enforcing child support orders for purposes of federal reimbursement under Title IV-D of the Social Security Act, 42 U.S.C. § 66(a)(2). The Secretary of the United States Department of Health and Human Services may waive the expedited process requirement with respect to one or more district court district as defined in G.S. 7A-133 on the basis of the effectiveness and timeliness of support order issuance and enforcement within the district.
- (3) The State has a strong financial interest in complying with the expedited process requirement, and other requirements, of Title IV-D of the Social Security Act, but the State would incur substantial expense in creating statewide an expedited child support process as defined by federal law.
- (4) The State's judicial system is largely capable of processing child support cases in a timely and efficient manner and has a strong commitment to an expeditious system.
- (5) The substantial expense the State would incur in creating a new system for obtaining and enforcing child support orders would be reduced and better spent by improving the present system.

(b) Purpose and Policy. -- It is the policy of this State to ensure, to the maximum extent possible, that child support obligations are established and enforced fairly, efficiently, and swiftly through the judicial system by means that make the best use of the State's resources. It is the purpose of this Article to facilitate this policy. The Administrative Office of the Courts and judicial officials in each district court district as defined in G.S. 7A-133 shall make a diligent effort to ensure that child support cases, from the time of filing to the time of disposition, are handled fairly, efficiently, and swiftly. The Administrative Office of the Courts and the State Department of Human Resources Health and Human Services shall work together to improve procedures for the handling of child support cases in which the State or county has an interest, including all cases that qualify in any respect for federal reimbursement under Title IV-D of the Social Security Act."

Section 11A.19. G.S. 50-33(a) reads as rewritten:

"(a) DHR State to Seek Waiver. -- The State Department of Human Resources, Health and Human Services, with the assistance of the

Administrative Office of the Courts, shall vigorously pursue application to the ~~Secretary of the United States~~ Department of Health and Human Services for waivers of the federal expedited process requirement."

Section 11A.20. G.S. 58-87-5(a) reads as rewritten:

"(a) There is created in the Department of Insurance the Volunteer Rescue/EMS Fund to provide grants to volunteer rescue units providing rescue or rescue and emergency medical services to purchase equipment and make capital improvements. An eligible rescue or rescue/EMS unit may apply to the Department of Insurance for a grant under this section. The application form and criteria for grants shall be established by the Department. The ~~Office of Emergency Medical Services in the~~ Department of ~~Human Resources~~ Health and Human Services shall provide the Department with an advisory priority listing of EMS equipment eligible for funding. The State Treasurer shall invest the Fund's assets according to law, and the earnings shall remain in the Fund. On December 15 of each year, the Department shall make grants to eligible rescue or rescue/EMS units subject to all of the following limitations:

- (1) A grant to an applicant who is required to match the grant with non-State funds may not exceed fifteen thousand dollars (\$15,000), and a grant to an applicant who is not required to match the grant with non-State funds may not exceed three thousand dollars (\$3,000).
 - (2) An applicant whose liquid assets, when combined with the liquid assets of any corporate affiliate or subsidiary of the applicant, are more than one thousand dollars (\$1,000) shall match the grant on a dollar-for-dollar basis with non-State funds.
 - (3) The grant may be used only for equipment purchases or capital expenditures.
 - (4) An applicant may receive no more than one grant per fiscal year.
- In awarding grants under this section, the Department shall to the extent possible select applicants from all parts of the State based upon need. Up to two percent (2%) of the Fund may be used for additional staff and resources to administer the Fund in each fiscal year. In addition, notwithstanding G.S. 58-78-20, up to four percent (4%) of the Fund may be used for additional staff and resources for the North Carolina Fire and Rescue Commission."

Section 11A.20A. G.S. 58-39-75(20) reads as rewritten:

"(20) To the Department of ~~Environment, Health, and Natural Resources~~ Health and Human Services and the information disclosed is immunization information described in G.S. 130A-153."

Section 11A.21. G.S. 66-58, as amended by S.L. 1997-261, S.L. 1997-258, and S.L. 1997-315 reads as rewritten:

"§ 66-58. *Sale of merchandise by governmental units.*

(a) Except as may be provided in this section, it shall be unlawful for any unit, department or agency of the State government, or any division or subdivision of ~~any such~~ the unit, department or agency, or any individual employee or employees of ~~any such~~ the unit, department or agency in his, or her, or their capacity as employee or employees thereof, to engage

directly or indirectly in the sale of goods, wares or merchandise in competition with citizens of the State, or to engage in the operation of restaurants, cafeterias or other eating places in any building owned by or leased in the name of the State, or to maintain service establishments for the rendering of services to the public ordinarily and customarily rendered by private enterprises, or to contract with any person, firm or corporation for the operation or rendering of ~~any such~~ the businesses or services on behalf of ~~any such~~ the unit, department or agency, or to purchase for or sell to any person, firm or corporation any article of merchandise in competition with private enterprise. The leasing or subleasing of space in any building owned, leased or operated by any unit, department or agency or division or subdivision thereof of the State for the purpose of operating or rendering of any of the businesses or services herein referred to is hereby prohibited.

(b) The provisions of subsection (a) of this section shall not apply to:

- (1) Counties and municipalities.
- (2) The Department of ~~Human Resources, Health and Human Services~~ the Department of Environment, Health, and Natural Resources, or the Department of Agriculture and Consumer Services for the sale of serums, vaccines, and other like products.
- (3) The Department of Administration, except that ~~said~~ the agency shall not exceed the authority granted in the act creating the agency.
- (4) The State hospitals for the ~~insane, mentally ill.~~
- (5) The Department of ~~Human Resources, Health and Human Services.~~
- (6) The North Carolina School for the Blind at Raleigh.
- (7) The North Carolina Schools for the Deaf.
- (8) The Greater University of North Carolina with regard to its utilities and other services now operated by it nor to the sale of articles produced incident to the operation of instructional departments, articles incident to educational research, articles of merchandise incident to classroom work, meals, books, or to articles of merchandise not exceeding twenty-five cents (25¢) in value when sold to members of the educational staff or staff auxiliary to education or to duly enrolled students or occasionally to immediate members of the families of members of the educational staff or of duly enrolled students nor to the sale of meals or merchandise to persons attending meetings or conventions as invited guests nor to the operation by the University of North Carolina of an inn or hotel and dining and other facilities usually connected with a hotel or inn, nor to the hospital and Medical School of the University of North Carolina, nor to the Coliseum of North Carolina State College, and the other schools and colleges for higher education maintained or supported by the State, nor to the comprehensive student health services or the comprehensive student infirmaries maintained by the constituent institutions of the University of North Carolina.

- (9) The Department of ~~Environment, Health, Environment~~ and Natural Resources, except that ~~said the~~ Department shall not construct, maintain, operate or lease a hotel or tourist inn in any park over which it has jurisdiction. The North Carolina Wildlife Resources Commission may sell wildlife memorabilia as a service to members of the public interested in wildlife conservation.
- (10) Child-caring institutions or orphanages receiving State aid.
- (11) Highlands School in Macon County.
- (12) The North Carolina State Fair.
- (13) Rural electric memberships corporations.
- (13a) State Farm Operations Commission.
- (13b) The Department of Agriculture and Consumer Services with regard to its lessees at farmers' markets operated by the Department.
- (13c) The Western North Carolina Agricultural Center.
- (14) Nothing herein contained shall be construed to prohibit the engagement in any of the activities described in subsection (a) hereof by a firm, corporation or person who or which is a lessee of space only of the State of North Carolina or any of its departments or agencies; provided ~~such the~~ leases shall be awarded by the Department of Administration to the highest bidder, as provided by law in the case of State contracts and which lease shall be for a term of not less than one year and not more than five years.
- (15) The State Department of Correction is authorized to purchase and install automobile license tag plant equipment for the purpose of manufacturing license tags for the State and local governments and for such other purposes as the Department may direct.

The Commissioner of Motor Vehicles, or such other authority as may exercise the authority to purchase automobile license tags is hereby directed to purchase from, and to contract with, the State Department of Correction for the State automobile license tag requirements from year to year.

The price to be paid to the State Department of Correction for ~~such the~~ tags shall be fixed and agreed upon by the Governor, the State Department of Correction, and the Motor Vehicle Commissioner, or such authority as may be authorized to purchase ~~such the~~ supplies.

- (16) Laundry services performed by the Department of Correction may be provided only for agencies and instrumentalities of the State which are supported by State funds and for county or municipally controlled and supported hospitals presently being served by the Department of Correction, or for which services have been contracted or applied for in writing, as of May 22, 1973. In addition to the prior sentence, laundry services performed by the Department of Correction may be provided for

the Governor Morehead School and the North Carolina School for the Deaf.

Such The services shall be limited to wet-washing, drying and ironing of flatwear or flat goods such as towels, sheets and bedding, linens and those uniforms prescribed for wear by such the institutions and further limited to only flat goods or apparel owned, distributed or controlled entirely by such the institutions and shall not include processing by any dry-cleaning methods; provided, however, those garments and items presently being serviced by wet-washing, drying and ironing may in the future, at the election of the Department of Correction, be processed by a dry-cleaning method.

- (17) The North Carolina Global TransPark Authority or a lessee of the Authority.
- (18) The activities and products of private enterprise carried on or manufactured within a State prison facility pursuant to G.S. 148-70.
- (c) The provisions of subsection (a) shall not prohibit:
 - (1) The sale of products of experiment stations or test farms.
 - (2) The sale of learned journals, works of art, books or publications of the Department of Cultural Resources or other agencies, or the Supreme Court Reports or Session Laws of the General Assembly.
 - (3) The business operation of endowment funds established for the purpose of producing income for educational purposes; for purposes of this section, the phrase 'operation of endowment funds' shall include the operation by public postsecondary educational institutions of campus stores, the profits from which are used exclusively for awarding scholarships to defray the expenses of students attending the institution; provided, that the operation of such the stores must be approved by the board of trustees of the institution, and the merchandise sold shall be limited to educational materials and supplies, gift items and miscellaneous personal-use articles. Provided further that sales at campus stores are limited to employees of the institution and members of their immediate families, to duly enrolled students of the campus at which a campus store is located and their immediate families, to duly enrolled students of other campuses of the University of North Carolina other than the campus at which the campus store is located, to other campus stores and to other persons who are on campus other than for the purpose of purchasing merchandise from campus stores. It is the intent of this subdivision that campus stores be established and operated for the purpose of assuring the availability of merchandise described in this Article for sale to persons enumerated herein and not for the purpose of competing with stores operated in the communities surrounding the campuses of the University of North Carolina.

- (4) The operation of lunch counters by the Department of ~~Human Resources~~ Health and Human Services as blind enterprises of the type operated on January 1, 1951, in State buildings in the City of Raleigh.
- (5) The operation of a snack bar and cafeteria in the State Legislative Building.
- (6) The maintenance by the prison system authorities of eating and sleeping facilities at units of the State prison system for prisoners and for members of the prison staff while on duty, or the maintenance by the highway system authorities of eating and sleeping facilities for working crews on highway construction or maintenance when actually engaged in such work on parts of the highway system.
- (7) The operation by penal, correctional or facilities operated by the Department of ~~Human Resources~~ Health and Human Services or by the Department of Agriculture and Consumer Services, of dining rooms for the inmates or clients or members of the staff while on duty and for the accommodation of persons visiting such the inmates or clients, and other bona fide visitors.
- (8) The sale by the Department of Agriculture and Consumer Services of livestock, poultry and publications in keeping with its present livestock and farm program.
- (9) The operation by the public schools of school cafeterias.
- (9a) The use of a public school bus or public school activity bus for a purpose allowed under G.S. 115C-242 or the use of a public school activity bus for a purpose authorized by G.S. 115C-247.
- (10) Sale by any State correctional or other institution of farm, dairy, livestock or poultry products raised or produced by it in its normal operations as authorized by the act creating it.
- (11) The sale of textbooks, library books, forms, bulletins, and instructional supplies by the State Board of Education, State Department of Public Instruction, and local school authorities.
- (12) The sale of North Carolina flags by or through the auspices of the Department of Administration, to the citizens of North Carolina.
- (13) The operation by the Department of Correction of forestry management programs on State-owned lands, including the sale on the open market of timber cut as a part of such the management program.
- (14) The operation by the Department of Correction of facilities to manufacture and produce traffic and street name signs for use on the public streets and highways of the State.
- (15) The operation by the Department of Correction of facilities to manufacture and produce paint for use on the public streets and highways of the State.
- (16) The performance by the Department of Transportation of dredging services for a unit of local government.
- (17) The sale by the State Board of Elections to political committees and candidate committees of computer software designed by or for

the State Board of Elections to provide a uniform system of electronic filing of the campaign finance reports required by Article 22A of Chapter 163 of the General Statutes and to facilitate the State Board's monitoring of compliance with that Article. This computer software for electronic filing of campaign finance reports shall not exceed a cost of one hundred dollars (\$100.00) to any political committee or candidate committee without the State Board of Elections first notifying in writing the Joint Legislative Commission on Governmental Operations.

- (18) The leasing of no more than 50 acres within the North Carolina Zoological Park by the Department of ~~Environment, Health, Environment and Natural Resources~~ to the North Carolina Zoological Society for the maintenance or operation, pursuant to a contract or otherwise, of an exhibition center, theater, conference center, and associated restaurants and lodging facilities.

(d) A department, agency or educational unit named in subsection (b) shall not perform any of the prohibited acts for or on behalf of any other department, agency or educational unit.

(e) Any person, whether employee of the State of North Carolina or not, who shall violate, or participate in the violation of this section, shall be guilty of a Class 1 misdemeanor.

(f) Notwithstanding the provisions of G.S. 66-58(a), the operation by the Department of Correction of facilities for the manufacture of any product or the providing of any service pursuant to G.S. 148-70 not regulated by the provisions of subsection (c) hereof, shall be subject to the prior approval of the Governor, with biennial review by the General Assembly, at the beginning of each fiscal year commencing after October 1, 1975. The Department of Correction shall file with the Director of the Budget quarterly reports detailing prison enterprise operations in such a format as shall be required by the Director of the Budget.

(g) The North Carolina School of Science and Mathematics may engage in any of the activities permitted by G.S. 66-58(b)(8) and (c)(3)."

Section 11A.22. G.S. 90-85.34A(a) reads as rewritten:

"(a) A registered nurse in a local health department clinic may dispense prescription drugs and devices, other than controlled substances as defined in G.S. 90-87, under the following conditions:

- (1) The registered nurse has training acceptable to the Board in the labeling and packaging of prescription drugs and devices;
- (2) Dispensing by the registered nurse shall occur only at a local health department clinic;
- (3) Only prescription drugs and devices contained in a formulary recommended by the Department of ~~Environment, Health, and Natural Resources~~ Health and Human Services and approved by the Board shall be dispensed;
- (4) The local health department clinic shall obtain a pharmacy permit in accordance with G.S. 90-85.21;

- (5) Written procedures for the storage, packaging, labeling and delivery of prescription drugs and devices shall be approved by the Board; and
- (6) The pharmacist-manager, or another pharmacist at his direction, shall review dispensing records at least weekly, provide consultation where appropriate, and be responsible to the Board for all dispensing activity at the local health department clinic."

Section 11A.23. G.S. 90-233(a) reads as rewritten:

"(a) A dental hygienist may practice only under the supervision of one or more licensed dentists. Provided, however, that this subsection (a) shall be deemed to be complied with in the case of dental hygienists employed by the Department of ~~Environment, Health, and Natural Resources~~ Health and Human Services and especially trained by said Department as public health hygienists while performing their duties in the public schools under the direction of a duly licensed dentist."

Section 11A.24. G.S. 90A-21 reads as rewritten:

"§ 90A-21. *Water Treatment Facility Operators Board of Certification.*

(a) Board Membership. -- There is hereby established within the Department of ~~Environment, Health, and Natural Resources~~ Environment and Natural Resources a Water Treatment Facility Operators Board of Certification (hereinafter termed the 'Board of Certification') composed of eight members to be appointed by the Governor as follows:

- (1) One member who is currently employed as a water treatment facility operator;
- (2) One member who is manager of a North Carolina municipality using a surface water supply;
- (3) One member who is manager of a North Carolina municipality using a treated groundwater supply;
- (4) One member who is employed as a director of utilities, water superintendent, or equivalent position with a North Carolina municipality;
- (5) One member employed by a private water utility or private industry and who is responsible for the operation or supervision of a water supply and treatment facility;
- (6) One member who is a faculty member of a four-year college or university whose major field is related to water supply;
- (7) One member employed by the Department of Environment, Health, and Natural Resources and working in the field of water supply;
- (8) One member not certified or regulated under this Article, who shall represent the interest of the public at large.

(b) Terms of Office. -- All members serving on the Board on June 30, 1981, shall complete their respective terms. No member appointed to the Board on or after July 1, 1981, shall serve more than two complete consecutive three-year terms, except that the member employed by the Department of ~~Environment, Health, and Natural Resources~~ Environment and Natural Resources may serve more than two consecutive terms, and except that each member shall serve until his successor is appointed and qualifies. The Governor may remove any member for good cause shown and

shall appoint members to fill unexpired terms. The Governor shall appoint the public member not later than July 1, 1981.

(c) Powers and Responsibilities. -- The Board of Certification shall establish all rules, regulations and procedures with respect to the certification program and advise and assist the Secretary of ~~Environment, Health, and Natural Resources~~ Environment and Natural Resources in its administration.

(d) Compensation. -- Members of the Board of Certification who are officers or employees of State agencies or institutions shall receive subsistence and travel allowances at the rates authorized by G.S. 138-5.

(e) Officers. -- The Board shall elect a chairman and all other necessary officers to serve one-year terms. A majority of the members of the Board shall constitute a quorum for the transaction of business.

(f) Annual Report. -- The Board shall report annually to the Governor a full statement of its disciplinary and enforcement programs and activities during the year, together with such recommendations as it may deem expedient."

Section 11A.25. G.S. 90A-22(a) reads as rewritten:

"(a) On or before July 1, 1982, the Board of Certification, with the advice and assistance of the Secretary of ~~Environment, Health, and Natural Resources~~, Environment and Natural Resources, shall classify all surface water treatment facilities and all facilities for treating groundwater supplies that are used, or intended for use, as part of a public water supply system with due regard for the size of the facility, its type, character of water to be treated, other physical conditions affecting the treatment of the water, and with respect to the degree of skill, knowledge, and experience that the operator responsible for the water treatment facility must have to supervise successfully the operation of the facilities so as to adequately protect the public health."

Section 11A.26. G.S. 90A-23 reads as rewritten:

"§ 90A-23. *Grades of certificates.*

The Board of Certification, with the advice and assistance of the Secretary of ~~Environment, Health, and Natural Resources~~, Environment and Natural Resources, shall establish grades of certification for water treatment facility operators corresponding to the classification of water treatment facilities."

Section 11A.27. G.S. 90A-24 reads as rewritten:

"§ 90A-24. *Operator qualifications and examination.*

The Board of Certification, with the advice and assistance of the Secretary of ~~Environment, Health, and Natural Resources~~ Environment and Natural Resources shall establish minimum requirements of education, experience and knowledge for each grade of certification for water treatment facility operators, and shall establish procedures for receiving applications for certification, conducting examinations and making investigations of applicants as may be necessary and appropriate to the end that prompt and fair consideration be given every application and the water treatment facilities of the State may be adequately supervised by certified operators."

Section 11A.28. G.S. 90A-25(c) reads as rewritten:

"(c) Certificates in an appropriate grade will be issued to operators who, on July 1, 1969, hold certificates of competency issued under the voluntary

certification program now being administered through the Department of ~~Environment, Health, and Natural Resources~~ Environment and Natural Resources with the cooperation of the North Carolina Water Works Operators Association, the North Carolina Section of the American Water Works Association, and the North Carolina League of Municipalities."

Section 11A.29. G.S. 90A-25.1 reads as rewritten:

"§ 90A-25.1. *Renewal of certificate.*

A certificate expires on December 31 of the year in which it is issued or renewed. The Board, with the advice and assistance of the Secretary of ~~Environment, Health, and Natural Resources~~ Environment and Natural Resources, may establish minimum continuing education requirements that an applicant must meet to renew a certificate. The Board shall renew a certificate if the applicant meets the continuing education requirements imposed as a condition for renewal, pays the required renewal fee plus any renewal fees in arrears, and, if the application is late, pays the late penalty."

Section 11A.30. G.S. 90A-28 reads as rewritten:

"§ 90A-28. *Promotion of training and other powers.*

The Board of Certification and the Secretary of ~~Economic, Health, and Natural Resources~~ Environment and Natural Resources are authorized to ~~may take~~ all necessary and appropriate steps in order to effectively and fairly achieve the purposes of this Article, including, but not limited to, the providing of training for operators and cooperating with educational institutions and private and public associations, persons, or corporations in the promotion of training for water treatment facility personnel."

Section 11A.31. G.S. 90A-30(a) reads as rewritten:

"(a) Upon the recommendation of the Board of Certification, the Secretary of ~~Environment, Health, and Natural Resources~~ Environment and Natural Resources or a delegated representative may impose an administrative, civil penalty on any person, corporation, company, association, partnership, unit of local government, State agency, federal agency, or other legal entity who violates G.S. 90A-29(a). Each day of a continued violation shall constitute a separate violation. The penalty shall not exceed one hundred dollars (\$100.00) for each day such violation continues. No penalty shall be assessed until the person alleged to be in violation has been notified of the violation."

Section 11A.32. G.S. 90A-55(a) reads as rewritten:

"(a) Board Membership. -- The Board shall consist of nine members: the Secretary of ~~Environment, Health, and Natural Resources~~ Environment and Natural Resources or his the Secretary's duly authorized representative, one public-spirited citizen, one environmental sanitation educator from an accredited college or university, one local health director, a representative of the Environmental Health Division of the Department of ~~Environment, Health, and Natural Resources~~ Environment and Natural Resources, and four practicing sanitarians who qualify by education and experience for registration under this Article, three of whom will represent the Western, Piedmont, and Eastern Regions of the State as described more specifically in the rules adopted by the Board."

Section 11A.33. G.S. 95-126 reads as rewritten:

"§ 95-126. *Short title and legislative purpose.*

(a) This Article shall be known as the 'Occupational Safety and Health Act of North Carolina' and also may be referred to by abbreviations as 'OSHANC.'

(b) Legislative findings and purpose:

- (1) The General Assembly finds that the burden of employers and employees of this State resulting from personal injuries and illnesses arising out of work situations is substantial; that the prevention of these injuries and illnesses is an important objective of the government of this State; that the greatest hope of attaining this objective lies in programs of research, education and enforcement, and in the earnest cooperation of the federal and State governments, employers and employees.
- (2) The General Assembly of North Carolina declares it to be its purpose and policy through the exercise of its powers to assure ensure so far as possible every working man and woman in the State of North Carolina safe and healthful working conditions and to preserve our human resources:
 - a. By encouraging employers and employees in their effort to reduce the number of occupational safety and health hazards at the place of employment, and to stimulate employers and employees to institute new and to perfect existing programs for providing safe and healthful working conditions;
 - b. By providing that employers and employees have separate but dependent responsibilities and rights with respect to achieving safe and healthful working conditions;
 - c. By authorizing the Commissioner to develop occupational safety and health standards applicable to business giving consideration to the needs of employers and employees and to adopt standards promulgated from time to time by the Secretary of Labor under the Occupational Safety and Health Act of 1970, and by creating a safety and health review board for carrying out adjudicatory functions under this Article;
 - d. By building upon advances already made through employer and employee initiative for providing safe and healthful working conditions;
 - e. By providing occupational health criteria which will assure insofar as practicable that no employee will suffer diminished health, functional capacity, or life expectancy as a result of his work experience;
 - f. By providing for training programs to increase the number and competence of personnel engaged in the field of occupational safety and health;
 - g. By providing an effective enforcement program which shall include a prohibition against giving advance notice of an inspection and sanctions for any individual violating this prohibition;
 - h. By providing for appropriate reporting procedures with respect to occupational safety and health which procedures will help

achieve the objectives of this Article and accurately describe the nature of the occupational safety and health problem;

- i. By encouraging joint employer-employee efforts to reduce injuries and diseases arising out of employment;
- j. By providing for research in the field of occupational safety and health, by developing innovative methods, techniques, and approaches for dealing with occupational safety and health problems;
- k. By exploring ways to discover latent diseases, establishing causal connections between diseases and work in environmental conditions, and conducting other research relating to health problems, in recognition of the fact that occupational health standards present problems often different from those involved in occupational safety;
- l. By authorizing the Commissioner to enter into contracts with the Department of ~~Environment, Health, and Natural Resources~~, Health and Human Services, or any other State or local units, to the end that the Commissioner and the Department of ~~Environment, Health, and Natural Resources~~ Health and Human Services and other State or local units may fully cooperate and carry out the ends and purposes of this Article.
- m. The General Assembly of North Carolina appoints and elects the North Carolina Department of Labor as the designated agency to administer the Occupational Safety and Health Act of North Carolina."

Section 11A.34. G.S. 95-131(d) reads as rewritten:

"(d) Rules adopted under this section shall provide insofar as possible the highest degree of safety and health protection for employees; other considerations shall be the latest available scientific data in the field, the feasibility of the standard, and experience gained under this and other health and safety laws. Whenever practical the standards established in a rule shall be expressed in terms of objective criteria and of the performance desired. In establishing standards dealing with toxic materials or harmful physical agents, the Commissioner, after consultation and recommendations of the Department of ~~Environment, Health, and Natural Resources~~, Health and Human Services, shall set a standard which most adequately assures, to the extent possible, on the basis of the most available evidence that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to the hazard dealt with by such standard for the period of his working life."

Section 11A.35. G.S. 95-149 reads as rewritten:

"§ 95-149. *Authority to enter into contracts with other State agencies and subdivisions of government.*

The Commissioner is ~~authorized and empowered to may~~ enter into contracts with the Department of ~~Environment, Health, and Natural Resources~~ Health and Human Services or any other State officer or State agency or State instrumentality, or any municipality, county, or other

political subdivision of the State, for the enforcement, administration, and any other application of the provisions of this Article."

Section 11A.36. G.S. 95-225(c) reads as rewritten:

"(c) For the protection of the public health, the Commission for Health Services shall adopt and the Department of ~~Environment, Health, and Natural Resources~~ Environment and Natural Resources shall enforce rules that establish water quality and water sanitation standards for migrant housing under this Article."

Section 11A.37. G.S. 97-61.1 reads as rewritten:

"§ 97-61.1. *First examination of and report on employee having asbestosis or silicosis.*

When an employee and the Industrial Commission are advised by the Department of ~~Environment, Health, and Natural Resources~~ Health and Human Services that an employee has asbestosis or silicosis, the employer shall be notified by the Industrial Commission, and the employee, when ordered by the Industrial Commission, shall go to a place designated by the Industrial Commission and submit to X rays and a physical examination by the advisory medical committee, at least one of whom shall conduct the examination, and the member or members of the advisory medical committee conducting the examination shall forward the X rays and findings to the member or members of the committee not present for the physical examination. The employer shall pay the expenses connected with the examination in such amounts as shall be directed by the Industrial Commission. Within 30 days after the completion of the examination, the advisory medical committee shall make a written report signed by all of its members setting forth:

- (1) The X rays and clinical procedures used by the committee in arriving at its findings.
- (2) Whether or not the claimant has contracted asbestosis or silicosis.
- (3) The committee's opinion expressed in percentages of the impairment of the employee's ability to perform normal labor in the same or any other employment.
- (4) Any other matter deemed pertinent by the committee.

When a competent physician certifies to the Industrial Commission that the employee's physical condition is such that his movement to the place of examination ordered by the Industrial Commission as herein provided in G.S. 97-61.1, 97-61.3 and 97-61.4 would be harmful or injurious to the health of the employee, the Industrial Commission shall cause the examination of the employee to be made by the advisory medical committee as herein provided at some place in the vicinity of the residence of the employee suitable for the purposes of making such examination."

Section 11A.38. G.S. 97-72(b) reads as rewritten:

"(b) The members of the advisory medical committee shall be paid one hundred dollars (\$100.00) per month plus not more than ten dollars (\$10.00) per film examined. The fee per film shall be established by the Secretary of ~~Environment, Health, and Natural Resources~~ Health and Human Services."

Section 11A.39. G.S. 97-73(b) reads as rewritten:

"(b) The Secretary of ~~Environment, Health, and Natural Resources~~ Health and Human Services shall establish a schedule of fees for examinations conducted by the Department of ~~Environment, Health, and Natural Resources~~ Health and Human Services pursuant to G.S. 97-60. The fees shall be collected in accordance with rules adopted by the Secretary of ~~Environment, Health, and Natural Resources~~ Health and Human Services."

Section 11A.40. G.S. 106-65.23, as amended by S.L. 1997-261, reads as rewritten:

"§ 106-65.23. *Structural Pest Control Division of Department of Agriculture and Consumer Services recreated; Director; Structural Pest Control Committee created; appointment; terms; quorum.*

There is ~~hereby~~ recreated, within the North Carolina Department of Agriculture and Consumer Services, a Division ~~thereof~~, to be known as the ~~Structural Pest Control Division of said Department~~ Division. The Commissioner of Agriculture ~~is hereby authorized to may~~ appoint a Director of ~~said the~~ Division whose duties and authority shall be determined by the Commissioner. ~~Said The~~ Director shall act as secretary to the Structural Pest Control Committee ~~herein created~~ created in this section.

There is hereby created a Structural Pest Control Committee to be composed of the following members. The Commissioner shall appoint one member of the Committee who is not in the structural pest control business for a four-year term. The Commissioner of Agriculture shall designate an employee of the Department of Agriculture and Consumer Services to serve on ~~said the~~ Committee at the pleasure of the Commissioner. The dean of the School of Agriculture of North Carolina State University at Raleigh shall appoint one member of the Committee who shall serve for one term of two years and who shall be a member of the entomology faculty of ~~said the~~ University. The vacancy occurring on the Committee by the expired term of the member from the entomology faculty of ~~said the~~ University shall be filled by the dean of the School of Agriculture of North Carolina State University at Raleigh who shall designate any person of ~~his the dean's~~ choice from the entomology faculty of ~~said the~~ University to serve on ~~said the~~ Committee at the pleasure of the dean. ~~The Secretary of Environment, Health, and Natural Resources~~ Health and Human Services shall appoint one member of the Committee who shall be an epidemiologist ~~in the Division of Health Services~~ and who shall serve at the pleasure of the Secretary. The Governor shall appoint two members of ~~said the~~ Committee who are actively engaged in the pest control industry, who are licensed in at least two phases of structural pest control as provided under G.S. 106-65.25(a), and who are residents of the State of North Carolina but not affiliates of the same company. The initial Committee members from the pest control industry shall be appointed as follows: one for a two-year term and one for a three-year term. The Governor shall appoint one member of the Committee who is a public member and who is unaffiliated with the structural pest control industry, the pesticide industry, the Department of Agriculture and Consumer Services, the Department of ~~Environment, Health, and Natural Resources~~ Health and Human Services and the School of Agriculture at North Carolina State University at Raleigh. The initial

public member shall be appointed for a term of two years, commencing July 1, 1991. After the initial appointments by the Governor, all ensuing appointments by the Governor shall be for terms of four years. Any vacancy occurring on the Committee by reason of death, resignation, or otherwise shall be filled by the Governor or the Commissioner of Agriculture, as the case may be, for the unexpired term of the member whose seat is vacant.

The Committee shall make final decisions under this Article concerning licenses, certified applicator cards, and identification cards. The Committee shall report annually to the Board of Agriculture the action taken in the Committee's final decisions and the financial status of the Structural Pest Control Division.

The Director shall be responsible for and answerable to the Commissioner of Agriculture as to the operation and conduct of the Structural Pest Control Division.

Each member of the Committee who is not an employee of the State shall receive as compensation for services per diem and necessary travel expenses and registration fees in accordance with the provisions as outlined for members of occupational licensing boards and currently provided for in G.S. 93B-5. Such per diem and necessary travel expenses and registration fees shall apply to the same effect that G.S. 93B-5 might hereafter be amended.

Four members of the Committee shall constitute a quorum but no action at any meeting of the Committee shall be taken without four votes in accord. The chairman shall be entitled to vote at all times.

The Committee shall meet at such times and such places in North Carolina as the chairman shall direct; provided, however, that four members of the Committee may call a special meeting of the Committee on five days' notice to the other members thereof.

Except as otherwise provided herein, all members of the Committee shall be appointed or designated, as the case may be, prior to and shall commence their respective terms on July 1, 1967.

At the first meeting of the Committee they shall elect a chairman who shall serve as such at the pleasure of the Committee."

Section 11A.41. G.S. 106-143 reads as rewritten:

"§ 106-143. *Article construed supplementary.*

Nothing in this Article shall be construed as in any way amending, abridging, or otherwise affecting the validity of any law or ordinance relating to the Commission for Health Services or the Department of Human Resources Environment and Natural Resources or any local health department in their sanitary work in connection with public and private water supplies, sewerage, meat, milk, milk products, shellfish, finfish, or other foods, or food products, or the production, handling, or processing thereof; ~~but this Article shall be construed to be in addition thereto.~~ of these items."

Section 11A.42. G.S. 106-168.5 reads as rewritten:

"§ 106-168.5. *Duties of Commissioner upon receipt of application; inspection committee.*

Upon receipt of the application, the Commissioner shall promptly cause the rendering plant and equipment, or the plans, specifications, and selected

site, of the applicant to be inspected by an inspection committee hereinafter called the 'committee,' which shall be composed of three members: One member who shall be designated by the Commissioner of Agriculture and who shall be an employee of the Department of Agriculture, one member who shall be designated by the Secretary of ~~Environment, Health, and Natural Resources~~ Health and Human Services and who shall be an employee of the ~~Department of Environment, Health, and Natural Resources~~ Health and Human Services, and one member who shall be designated by the director of the North Carolina Division of the Southeastern Renderers Association, and who shall be a person having practical knowledge of rendering operations. Each member may be designated and relieved from time to time at the discretion of the designating authority. No State employee designated as a member of the committee shall receive any additional compensation therefor and no compensation shall be paid by the State to any other member."

Section 11A.43. G.S. 106-266.6, as amended by S.L. 1997-261, reads as rewritten:

"§ 106-266.6. Definitions.

As used in this Article, unless otherwise stated and unless the context or subject matter clearly indicates otherwise:

- (1) 'Affiliate' means any person and/or subsidiary thereof, who has, either directly or indirectly, actual control or legal control over a distributor, whether by stock ownership or any other manner.
- (2) 'Books and records' means books, records, accounts, contracts, memoranda, documents, papers, correspondence, or other data, pertaining to the business of the person in question.
- (3) 'Commission' means the North Carolina Milk Commission created by this Article.
- (4) 'Distributor' or 'subdistributor' means any of the following persons engaged in the business of distributing, marketing, or in any manner handling fluid milk, in whole or in part, in fluid form for consumption in the State of North Carolina, but shall not mean any distributor who sells 25 gallons or less of milk per day which is produced on his own farm:

a. Persons, irrespective of whether any such person is a producer:

1. Who pasteurize or bottle milk or process milk into fluid milk;
 2. Who sell and/or market fluid milk at wholesale or retail:
 - I. To hotels, restaurants, stores or other establishments for consumption on the premises,
 - II. To stores or other establishments for resale, or
 - III. To consumers;
 3. Who operate stores or other establishments for the sale of fluid milk at retail for consumption off the premises.
- b. Persons wherever located or operating, whether within or without the State of North Carolina, who purchase, market or handle milk for resale as fluid milk in the State.

- (5) 'Health authorities' includes the Department of ~~Environment, Health, and Natural Resources~~, Health and Human Services, the Department of Environment and Natural Resources, the North Carolina Department of Agriculture and Consumer Services, the Commissioner of Agriculture, and the local health authorities.
- (6) 'Licensee' means a licensed milk distributor.
- (7) 'Market' means any city, town, or village of the State, or any two or more cities and/or towns and/or villages and surrounding territory designated by the Commission as a natural marketing area.
- (8) 'Milk' means the lacteal secretion obtained by the milking of one or more cows and reconstituted milk products derived from the recombining of dry milk solids, evaporated or condensed milk with water, and which is pasteurized, standardized or otherwise processed with a view of selling it as fluid milk in its several forms, whether cultured or with added bacteria or other ingredients, regardless of grade or fat content, including whole milk, lowfat milk, cream, chocolate milk, plain buttermilk, cream buttermilk, skim milk, special or premium milk, flavored milk or drinks, concentrated milk, sterile milk, dietary modified milk, liquid milk shake mix, half and half, eggnog, other milk-cream mixtures and the milk portion of any imitation milk. Said term excludes the lacteal secretion of one or more dairy cows where the secretion is to be sold for any other purpose.
- (9) 'Person' means any person, firm, corporation or association.
- (10) 'Producer' means any person, irrespective of whether such person is a member of a producer association or a distributor, who operates to produce milk for sale as fluid milk in the State.
- (11) 'Sanitary regulations' includes all laws and ordinances relating to the production, handling, transportation, distribution and sale of milk and, so far as applicable thereto, the State Sanitary Code and lawful regulations adopted by the dairy and food divisions, or by the board of health of any county or municipality.
- (12) 'Subdistributor' as distinguished from a 'distributor' means one who does not process milk but purchases its milk from a licensed distributor for distribution.
- (13) 'Subsidiary' means any person or officer over whom or which a distributor or an affiliate of a distributor has, or several distributors have either directly or indirectly, actual or legal control, whether by stock ownership or in any other manner."

Section 11A.44. G.S. 110-91 reads as rewritten:

"§ 110-91. *Mandatory standards for a license.*

The following standards shall be complied with by all child day care facilities, except as otherwise provided in this Article. These shall be the only required standards for the issuance of a license by the Secretary under the policies and procedures of the Commission except that the Commission may, in its discretion, adopt less stringent standards for facilities subject to licensing but which provide care on a temporary, part-time, drop-in, seasonal, after-school or other than a full-time basis.

- (1) **Medical Care and Sanitation.** -- The Commission for Health Services shall adopt rules which establish minimum sanitation standards for child day care facilities and their personnel. The sanitation rules adopted by the Commission for Health Services shall cover such matters as the cleanliness of floors, walls, ceilings, storage spaces, utensils, and other facilities; adequacy of ventilation; sanitation of water supply, lavatory facilities, toilet facilities, sewage disposal, food protection facilities, bactericidal treatment of eating and drinking utensils, and solid-waste storage and disposal; methods of food preparation and serving; infectious disease control; sleeping facilities; and other items and facilities as are necessary in the interest of the public health. These rules shall be developed in consultation with the Department.

The Commission shall adopt rules to establish minimum requirements for child and staff health assessments and medical care procedures. These rules shall be developed in consultation with the ~~Department of Environment, Health, and Natural Resources, Department.~~ Each child shall have a health assessment before being admitted or within 30 days following admission to a child day care facility. The assessment shall be done by: (i) a licensed physician, (ii) the physician's authorized agent who is currently approved by the North Carolina Medical Board, or comparable certifying board in any state contiguous to North Carolina, (iii) a certified nurse practitioner, or (iv) a public health nurse meeting the ~~Department of Environment, Health, and Natural Resources'~~ Department's Standards for Early Periodic Screening, Diagnosis, and Treatment Program. A record of each child's assessment shall be on file in the records of the facility. However, no health assessment shall be required of any child who is and has been in normal health and whose parent, guardian, or full-time custodian objects in writing to a health assessment on religious grounds which conform to the teachings and practice of any recognized church or religious denomination.

Each child shall be immunized in a manner that meets the requirements of Article 6 of Chapter 130A of the General Statutes and the pertinent rules adopted by the Commission for Health Services.

Each child day care facility shall have a plan of emergency medical care which shall include provisions for communication with and transportation to a specified medical resource, unless otherwise previously instructed. No child receiving day care shall be administered any drug or other medication without specific written instructions from a physician or the child's parent, guardian or full-time custodian. Emergency information on each child in care, including the names, addresses, and telephone numbers of the child's physician and parents, legal guardian or full-time custodian shall be readily available to the staff of the child day care facility while children are in care.

Nonprofit, tax-exempt organizations that provide prepared meals to day care centers only are considered day care centers for purposes of compliance with appropriate sanitation standards.

- (2) **Health-Related Activities.** -- Each child in a child day care facility shall receive nutritious food and refreshments under rules to be adopted by the Commission. After consultation with the State Health Director, nutrition standards shall provide for specific requirements for infants. Nutrition standards shall provide for specific requirements for children older than infants, including a daily food plan for meals and snacks served that shall be adequate for good nutrition. The number and size of servings and snacks shall be appropriate for the ages of the children and shall be planned according to the number of hours the child is in care. Menus for meals and snacks shall be planned at least one week in advance, dated, and posted where they can be seen by parents.

Each child day care facility shall arrange for each child in care to be out-of-doors each day if weather conditions permit.

Each child day care facility shall have a rest period for each child in care after lunch or at some other appropriate time.

No child day care facility shall care for more than 25 children in one group. Facilities providing care for 26 or more children shall provide for two or more groups according to the ages of children and shall provide separate supervisory personnel for each group.

- (3) **Location.** -- Each child day care facility shall be located in an area which is free from conditions which are deemed hazardous to the physical and moral welfare of the children in care in the opinion of the Commission.
- (4) **Building.** -- Each child day care facility shall be located in a building which meets the requirements of the North Carolina Building Code under standards which shall be developed by the Building Code Council, subject to adoption by the Commission specifically for child day care facilities, including facilities operated in a private residence. These standards shall be consistent with the provisions of this Article.
- (5) **Fire Prevention.** -- Each child day care facility shall be located in a building that meets the requirements for fire prevention and safe evacuation that apply to child day care facilities as established by the Department of Insurance, subject to adoption by the Commission. Each child day care facility shall be inspected at least annually by a local fire department or volunteer fire department for compliance with these requirements, except that child day care facilities located on State property shall be inspected by an official designated by the Department of Insurance.
- (6) **Space and Equipment Requirements.** -- There shall be no less than 25 square feet of indoor space for each child for which a child day care facility is licensed, exclusive of closets, passageways, kitchens, and bathrooms, and this floor space shall

provide during rest periods 200 cubic feet of airspace per child for which the facility is licensed. There shall be adequate outdoor play area for each child under rules adopted by the Commission which shall be related to the size and type of facility, availability and location of outside land area, except in no event shall the minimum required exceed 75 square feet per child, which area shall be protected to assure the safety of the children receiving day care by an adequate fence or other protection; provided, however, that a facility operated in a public school shall be deemed to have adequate fencing protection; provided, also, that a facility operating exclusively during the evening and early morning hours, between 6:00 P.M. and 6:00 A.M., need not meet the outdoor play area requirements mandated by this subdivision.

Each child day care facility shall provide equipment and furnishings that are child size, sturdy, safe, and in good repair. The Commission shall adopt standards to establish minimum requirements for equipment appropriate for the size facility being operated pursuant to G.S. 110-86(3). Space shall be available for proper storage of beds, cribs, mats, cots, sleeping garments, and linens as well as designated space for each child's personal belongings.

- (7) Staff-Child Ratio. -- In determining the staff-child ratio, all children younger than 13 years shall be counted. The Commission shall adopt rules regarding staff-child ratios, group sizes and multi-age groupings for each category of facility other than for infants and toddlers, provided that these rules shall be no less stringent than those currently required for staff-child ratios as enacted in Section 156(e) of Chapter 757 of the 1985 Session Laws. The staff-child ratios and group sizes for infants and toddlers shall be no less stringent than as follows:

Age	Ratio	Group Size
0 to 12 months	5	10
12 to 24 months	6	12
2 to 3 years	10	20.

- (8) Qualifications for Staff. -- Each child day care facility shall be under the direction or supervision of a literate person at least 21 years of age. All staff counted in determining the required staff-child ratio shall be at least 16 years of age, provided that persons younger than 18 years of age work under the direct supervision of a literate staff person who is at least 21 years of age. No person shall be an operator of nor be employed in a child day care facility who has been convicted of a crime involving child neglect, child abuse, or moral turpitude, or who is an habitually excessive user of alcohol or who illegally uses narcotic or other impairing drugs, or who is mentally or emotionally impaired to an extent that may be injurious to children.

The Commission shall adopt standards to establish minimum qualifications for operators, supervisors, caregivers and other staff who have direct contact with the children. These standards shall reflect training, experience, education or credentialing and shall be appropriate for the size facility being operated according to the categories defined in G.S. 110-86(3). It is the intent of this provision to guarantee that all children in day care are cared for by qualified people but also to recognize that qualifications for good child care may not be limited to formal education or training standards. To this end, the standards adopted by the Commission pertaining to training and educational requirements shall include provision that these requirements may be met by informal as well as formal training and educational experience. No requirements may interfere with the teachings or doctrine of any established religious organization.

- (9) Records. -- Each child day care facility shall keep accurate records on each child receiving care in the child day care facility in accordance with a form furnished or approved by the Commission, and shall submit attendance reports as required by the Department.

Each child day care facility shall keep accurate records on each staff member or other person delegated responsibility for the care of children in accordance with a form approved by the Commission.

All records of any child day care facility, except financial records, shall be subject to review by the Secretary or by duly authorized representatives of the Department or a cooperating agency who shall be designated by the Secretary.

Any effort to falsify information provided to the Department shall be deemed by the Secretary to be evidence of violation of this Article on the part of the operator or sponsor of the child day care facility and shall constitute a cause for revoking or denying a license to this child day care facility.

- (10) Each operator or staff member shall truly and honestly show each child in that person's care true love, devotion and tender care.

Each child day care facility shall have a written policy on discipline, describing the methods and practices used to discipline children enrolled in that facility. This written policy shall be discussed with, and a copy given to, each child's parent prior to the first time the child attends the facility. Subsequently, any change in discipline methods or practices shall be communicated in writing to the parents prior to the effective date of the change.

The use of corporal punishment as a form of discipline is prohibited in child day care facilities and may not be used by any operator or staff member of any child day care facility, except that corporal punishment may be used in religious sponsored child day care facilities as defined in G.S. 110-106, only if (i) the religious sponsored child day care facility files with the Department a notice stating that corporal punishment is part of

the religious training of its program, and (ii) the religious sponsored child day care facility clearly states in its written policy of discipline that corporal punishment is part of the religious training of its program. The written policy on discipline of nonreligious sponsored child day care facilities shall clearly state the prohibition on corporal punishment.

- (11) **Staff Development.** -- The Commission shall adopt minimum standards for ongoing staff development for facilities. These standards shall include requirements for ongoing in-service training for all staff.
- (12) **Planned Age Appropriate Activities.** -- Each child day care facility shall have a planned schedule of activities posted in a prominent place to enable parents to review it, and a written plan of age appropriate activities available to parents. Each facility shall have age appropriate activities and play materials to implement the written plan. The Commission shall establish minimum standards for age-appropriate activities appropriate for each category of facility as defined in G.S. 110-86(3).
- (13) **Transportation.** -- All child day care facilities shall abide by North Carolina law regulating the use of seat belts and child passenger restraint devices. All vehicles operated by any facility staff person or volunteer to transport children shall be properly equipped with appropriate seat belts or child restraint devices as approved by the Commissioner of Motor Vehicles. Each adult and child shall be restrained by an appropriate seat safety belt or restraint device when the vehicle is in motion. These restraint regulations do not apply to vehicles not required by federal law to be equipped with seat restraints. All vehicles used to transport children shall meet and maintain the safety inspection standards of the Division of Motor Vehicles of the Department of Transportation and the facility shall comply with all other applicable State and federal laws and regulations concerning the operation of a motor vehicle. Children may never be left unattended in a vehicle.

The ratio of adults to children in child day care vehicles may not be less than the staff/child ratios prescribed by G.S. 110-91(7). The Commission shall adopt standards for transporting children under the age of two, including standards addressing this particular age's staff/child ratio during transportation."

Section 11A.45. G.S. 110-92 reads as rewritten:

"§ 110-92. *Duties of State and local agencies.*

When requested by an operator of a day-care facility or by the Secretary it shall be the duty of local and district health departments to visit and inspect a day-care facility to determine whether the facility complies with the health and sanitation standards required by this Article and with the minimum sanitation standards adopted as rules by the Commission for Health Services as authorized by G.S. 110-91(1), and to submit written reports on such visits or inspections to the Department on forms approved and provided by

the Department of Environment, Health, and Natural Resources. Department of Environment and Natural Resources.

When requested by an operator of a day-care facility or by the Secretary, it shall be the duty of the local and district health departments, and any building inspector, fire prevention inspector, or fireman employed by local government, or any fireman having jurisdiction, or other officials or personnel of local government to visit and inspect a day-care facility for the purposes specified in this Article, including plans for evacuation of the premises and protection of children in case of fire, and to report on such visits or inspections in writing to the Secretary so that such reports may serve as the basis for action or decisions by the Secretary or Department as authorized by this Article."

Section 11A.46. The heading for Article 1 of Chapter 111 of the General Statutes reads as rewritten:

"ARTICLE 1.

General Duties of Department of ~~Human Resources.~~ Health and Human Services."

Section 11A.47. G.S. 115C-106(a) reads as rewritten:

"(a) The General Assembly of North Carolina hereby declares that the policy of the State is to ensure every child a fair and full opportunity to reach his full potential and that no child as defined in this section and in G.S. 115C-122 shall be excluded from service or education for any reason whatsoever. This policy shall be the practice of the State for children from birth through age 21 and the State requires compliance by all local education agencies and local school administrative units, all local human resources services agencies including, but not limited to, local health departments, local social service departments, community mental health centers and all State departments, agencies, institutions except institutions of higher education, and private providers which are recipients of general funds as these funds are defined in G.S. 143-1."

Section 11A.49A. G.S. 115C-122 reads as rewritten:

"§ 115C-122. *Early childhood development program; evaluation and placement of children.*

The General Assembly of North Carolina declares that the public policy of North Carolina is defined as follows to carry out the policies stated in G.S. 115C-106:

- (1) The State shall provide for a comprehensive early childhood development program by emphasizing preventative and remedial measures designed to provide the services which will enable children to develop to the maximum level their physical, mental, social, and emotional potentials and to strengthen the role of the family as the first and most fundamental influence on child development. The General Assembly finds that the complexity of early childhood development precludes the enactment of legislation which is of a sufficiently comprehensive nature to encompass all possible implications. The Departments of Public Instruction and Human Resources Health and Human Services shall, therefore, jointly develop an early childhood development program plan with flexibility sufficient to meet the State's policy as set forth in this

subdivision. Said plan shall provide for the operation of a statewide early childhood development program no later than June 30, 1983.

- (2) The State requires a system of educational opportunities for all children with special needs and requires the identification and evaluation of the needs of children and the adequacy of various education programs before placement of children, and shall provide for periodic evaluation of the benefits of programs to the individual child and the nature of the child's needs thereafter.
- (3) The State shall prevent denial of equal educational and service opportunity on the basis of national origin, sex, economic status, race, religion, and physical, mental, social or emotional handicap in the provision of services to any child. Each local school administrative unit shall develop program plans to meet the educational requirements of children with special needs and each local human ~~resources~~ services agency shall develop program plans to meet the human service requirements of children with special needs in accordance with program standards and in a planning format as shall be prescribed by the State Board of Education and the Department of ~~Human Resources~~ Health and Human Services respectively.

The General Assembly intends that the educational program and human service program requirements of Session Laws 1973, Chapter 1293, shall be realized no later than June 30, 1982. The General Assembly further intends that currently imposed barriers to educational and human service opportunities for children with special needs by reason of a single standardized test, income, federal regulations, conflicting statutes, or any other barriers are hereby abrogated; except that with respect to barriers caused by reason of income, it shall be permissible for the State or any local education agency or local human ~~resources~~ services agency to charge fees for special services rendered, or special materials furnished to a child with special needs, his parents, guardian or persons standing in loco parentis unless the imposition of such fees would prevent or substantially deter the child, his parents, guardian, or persons standing in loco parentis from availing themselves of or receiving such services or materials.

- (4) It is recognized that children have a variety of characteristics and needs, all of which must be considered if the potential of each child is to be realized; that in order to accomplish this the State must develop a full range of service and education programs, and that a program must actually benefit a child or be designed to benefit a particular child in order to provide such child with appropriate educational and service opportunities. The General Assembly requires that all programs employ least restrictive alternatives as shall be defined by the Departments of Public Instruction and Human Resources."

Section 11A.50. G.S. 115C-323 reads as rewritten:

"§ 115C-323. *Employee health certificate.*

All public school employees upon initial employment, and those who have been separated from public school employment more than one school year, including superintendents, supervisors, principals, teachers, and any other employees in the public schools of the State, shall file in the office of the superintendent, before assuming his duties, a certificate from a physician licensed to practice medicine in the State of North Carolina, certifying that said person does not have tuberculosis in the communicable form, or other communicable disease, or any disease, physical or mental, which would impair the ability of the said person to perform effectively his duties. A local school board or a superintendent may require any person herein named to take a physical examination when deemed necessary.

Any public school employee who has been absent for more than 40 successive school days because of a communicable disease must, before returning to work, file with the superintendent a physician's certificate certifying that the individual is free from any communicable disease.

The examining physician shall make the aforesaid certificates on an examination form supplied by the Superintendent of Public Instruction. The certificate shall be issued only after a physical examination has been made at the time of the certification, and such examination shall be in accordance with rules and regulations adopted by the Superintendent of Public Instruction, with approval of the Secretary of Environment, Health, and Natural Resources, Health and Human Services, and such rules and regulations may include the requirement of an X-ray chest examination for all new employees of the public school system.

It shall be the duty of the superintendent of the school in which the person is employed to enforce the provisions of this section.

Any person violating any of the provisions of this section shall be guilty of a Class 1 misdemeanor."

Section 11A.51. G.S. 115C-522(c) reads as rewritten:

"(c) It shall be the duty of local boards of education and tax-levying authorities to provide suitable supplies for the school buildings under their jurisdictions. These shall include, in addition to the necessary instructional supplies, proper window shades, blackboards, reference books, library equipment, maps, and equipment for teaching the sciences.

Likewise, it shall be the duty of said boards of education and boards of county commissioners to provide every school with a good supply of water, approved by the Department of Environment, Health, and Natural Resources, Environment and Natural Resources, and where such school cannot be connected to water-carried sewerage facilities, there shall be provided sanitary privies for the boys and for the girls according to specifications of the Commission for Health Services. Such water supply and sanitary privies shall be considered an essential and necessary part of the equipment of each public school and may be paid for in the same manner as desks and other essential equipment of the school are paid for."

Section 11A.52. G.S. 120-205(a) reads as rewritten:

"(a) This commission shall be composed of 21 members appointed as follows:

- (1) Seven members of the House of Representatives at the time of their appointment, appointed by the Speaker of the House of

Representatives. Of these members, one shall be a Chair of the House Appropriations Subcommittee on Human Resources; Health and Human Services;

- (2) Seven members of the Senate at the time of their appointment, appointed by the President Pro Tempore of the Senate. Of these members, one shall be the Chair of the Senate Human Resources Health and Human Services Appropriations Committee;
- (3) Three members who are representatives of Coalition 2001, appointed by the Governor. Of these members, one shall be a representative from mental health, one from developmental disabilities, and one from substance abuse services;
- (4) Two members of the public, appointed by the Speaker of the House of Representatives. Of these members, one shall be a county commissioner at the time of appointment, selected from a list of four candidates nominated by the North Carolina Association of County Commissioners. If the Association has failed to submit nominations by September 1, 1996, the Speaker of the House of Representatives may appoint any county commissioner; and
- (5) Two members of the public, appointed by the President Pro Tempore of the Senate. Of these members, one shall be a county commissioner at the time of appointment, selected from a list of four candidates nominated by the North Carolina Association of County Commissioners. If the Association has failed to submit nominations by September 1, 1996, the President Pro Tempore of the Senate may appoint any county commissioner."

Section 11A.53. G.S. 122C-112(a) reads as rewritten:

"(a) The Secretary shall:

- (1) Enforce the provisions of this Chapter and the rules of the Commission and the Secretary;
- (2) Assist counties and area authorities in the establishment and operation of community-based programs within catchment areas specified in rules adopted by the Commission;
- (3) Operate State facilities and adopt rules pertaining to their operation;
- (4) Promote a unified system of services for the citizens of this State by coordinating services provided in State facilities and area facilities;
- (5) Approve the plans and budgets of an area authority and adopt rules pertaining to the content and format of these plans and budgets;
- (6) Adopt rules governing the expenditure of all area authority funds;
- (6a) Adopt rules to implement the appeal procedure authorized by G.S. 122C-151.2;
- (7) Adopt rules for the establishment of single portal designation and approve an area as a single portal area;
- (8) Except as provided in G.S. 122C-26(4), adopt rules establishing procedures for waiver of rules adopted by the Secretary under this Chapter;

- (9) Notify the clerks of superior court of changes in the designation of State facility regions and of facilities designated under G.S. 122C-252;
- (10) Promote public awareness and understanding of mental health, mental illness, developmental disabilities, and substance abuse;
- (11) Administer and enforce rules that are conditions of participation in federal or State financial aid;
- (12) Carry out G.S. 122C-361; and
- (13) Ensure, in cooperation with other appropriate agencies, that all types of early intervention services specified in the Individuals with Disabilities Education Act (IDEA), P.L. 102-119, the federal early intervention legislation, are available to all eligible infants and toddlers and their families to the extent funded by the General Assembly.

The Secretary shall coordinate and facilitate the development and administration of the early intervention system for eligible infants and toddlers and shall assign among the cooperating agencies the responsibility, including financial responsibility, for services. The Secretary shall be advised by the Interagency Coordinating Council for Children from Birth to Five with Disabilities and Their Families, established by G.S. 143B-179.5, and may enter into formal interagency agreements to establish the collaborative relationships with ~~the Department of Environment, Health, and Natural Resources,~~ the Department of Public Instruction, other appropriate agencies, and other public and private service providers necessary to administer the system and deliver the services.

The Secretary shall adopt rules to implement the early intervention system, in cooperation with all other appropriate agencies;

- (14) Adopt rules to be followed in the determination of eligibility for, and to ensure the provision of services for, eligible assaultive and violent children as defined in G.S. 122C-3(13a); [and]
- (15) Upon the death of any prospective or confirmed Thomas S. class member as identified in Thomas S. et al. vs. Britt, (C-C-82-0418-M, Western District) not residing in a State facility listed in G.S. 122C-181, investigate the circumstances leading to that death. The investigation shall analyze any unusual circumstances relating to the death. The Secretary shall adopt rules to implement this subsection. The Secretary shall have access to all medical records, hospital records, and records maintained by the State, any county, or any local agency necessary to carry out the purposes of this subsection, including police investigations data, medical examiner investigative data, health records, mental health records, and social services records."

Section 11A.54. G.S. 130A-1.1 reads as rewritten:

"§ 130A-1.1. *Mission and essential services.*

(a) The General Assembly recognizes that unified purpose and direction of the public health system is necessary to assure ensure that all citizens in

the State have equal access to essential public-health services. The General Assembly declares that the mission of the public health system is to promote and contribute to the highest level of health possible for the people of North Carolina by:

- (1) Preventing health risks and disease;
- (2) Identifying and reducing health risks in the community;
- (3) Detecting, investigating, and preventing the spread of disease;
- (4) Promoting healthy lifestyles;
- (5) Promoting a safe and healthful environment;
- (6) Promoting the availability and accessibility of quality health care services through the private sector; and
- (7) Providing quality health care services when not otherwise available.

(b) As used in this section, the term 'essential public health services' means those services that the State shall ~~assure~~ ensure because they are essential to promoting and contributing to the highest level of health possible for the citizens of North Carolina. The ~~Department~~ Departments of ~~Environment, Health, and Natural Resources~~ Environment and Natural Resources and Health and Human Services shall attempt to ~~assure~~ ensure within the resources available to it ~~them~~ that the following essential public health services are available and accessible to all citizens of the State, and shall account for the financing of these services:

- (1) Health Support:
 - a. Assessment of health status, health needs, and environmental risks to health;
 - b. Patient and community education;
 - c. Public health laboratory;
 - d. Registration of vital events;
- (2) Environmental Health:
 - a. Lodging and institutional sanitation;
 - b. On-site domestic sewage disposal;
 - c. Water and food safety and sanitation; and
- (3) Personal Health:
 - a. Child health;
 - b. Chronic disease control;
 - c. Communicable disease control;
 - d. Dental public health;
 - e. Family planning;
 - f. Health promotion and risk reduction;
 - g. Maternal health.

The Commission for Health Services shall determine specific services to be provided under each of the essential public health services categories listed above.

(c) The General Assembly recognizes that there are health-related services currently provided by State and local government and the private sector that are important to maintaining a healthy social and ecological environment but that are not included on the list of essential public health services required under this section. Omission of these services from the list of essential public health services shall not be construed as an intent to

prohibit or decrease their availability. Rather, such omission means only that the omitted services may be more appropriately assured by government agencies or private entities other than the public health system.

(d) The list of essential public health services required by this section shall not be construed to limit or restrict the powers and duties of the Commission for Health Services or the Department Departments of Environment, Health, and Natural Resources Environment and Natural Resources and Health and Human Services as otherwise conferred by State law."

Section 11A.55. G.S. 130A-2 reads as rewritten:

"§ 130A-2. *Definitions.*

The following definitions shall apply throughout this Chapter unless otherwise specified:

- (1) 'Commission' means the Commission for Health Services.
- (2) 'Department' means the Department of Environment, Health, and Natural Resources. Health and Human Services.
- (3) 'Imminent hazard' means a situation which is likely to cause an immediate threat to human life, an immediate threat of serious physical injury, an immediate threat of serious adverse health effects, or a serious risk of irreparable damage to the environment if no immediate action is taken.
- (4) 'Local board of health' means a district board of health or a county board of health.
- (5) 'Local health department' means a district health department or a county health department.
- (6) 'Local health director' means the administrative head of a local health department appointed pursuant to this Chapter.
- (7) 'Person' means an individual, corporation, company, association, partnership, unit of local government or other legal entity.
- (8) 'Secretary' means the Secretary of Environment, Health, and Natural Resources. Health and Human Services.
- (9) 'Unit of local government' means a county, city, consolidated city-county, sanitary district or other local political subdivision, authority or agency of local government.
- (10) 'Vital records' means birth, death, fetal death, marriage, annulment and divorce records registered under the provisions of Article 4 of this Chapter."

Section 11A.56. G.S. 130A-4 reads as rewritten:

"§ 130A-4. *Administration.*

(a) The Except as provided in subsection (c) of this section, the Secretary shall have the authority and responsibility to administer and enforce the provisions of this Chapter and the rules of the Commission. A local health director shall have the authority and responsibility to administer the programs of the local health department and to enforce the rules of the local board of health.

(b) When requested by the Secretary, a local health department shall enforce the rules of the Commission under the supervision of the Department. The local health department shall utilize local staff authorized by the Department to enforce the specific rules.

(c) The Secretary of Environment and Natural Resources shall administer and enforce the provisions of Articles 8, 9, 10, 11, and 12 of this Chapter and the rules of the Commission.

(d) When requested by the Secretary of the Department of Environment and Natural Resources, a local health department shall enforce the rules of the Commission under the supervision of the Department of Environment and Natural Resources. The local health department shall utilize local staff authorized by the Department of Environment and Natural Resources to enforce the specific rules."

Section 11A.57. G.S. 130A-4.1 reads as rewritten:

"§ 130A-4.1. *State funds for maternal and child health care/non-supplanting.*

(a) ~~The Department of Environment, Health, and Natural Resources~~ shall ensure that local health departments do not reduce county appropriations for maternal and child health services provided by the local health departments because they have received State appropriations for this purpose.

(b) All income earned by local health departments for maternal and child health programs supported in whole or in part from State or federal funds, received from the ~~Department of Environment, Health, and Natural Resources, Department,~~ shall be budgeted and expended by local health departments to further the objectives of the program that generated the income."

Section 11A.58. G.S. 130A-4.2 reads as rewritten:

"§ 130A-4.2. *State funds for health promotion/non-supplanting.*

The ~~Department of Environment, Health, and Natural Resources~~ shall ensure that local health departments do not reduce county appropriations for health promotion services provided by the local health departments because they have received State appropriations for this purpose."

Section 11A.60. G.S. 130A-17 reads as rewritten:

"§ 130A-17. *Right of entry.*

(a) The Secretary and a local health director shall have the right of entry upon the premises of any place where entry is necessary to ~~carry out~~ enforce the provisions of this Chapter or the rules adopted by the Commission or a local board of health. If consent for entry is not obtained, an administrative search and inspection warrant shall be obtained pursuant to G.S. 15-27.2. However, if an imminent hazard exists, no warrant is required for entry upon the premises.

(b) The Secretary of the Department of Environment and Natural Resources and a local health director shall have the same rights enumerated in subsection (a) of this section to enforce the provisions of Articles 8, 9, 10, 11, and 12 of this Chapter."

Section 11A.61. G.S. 130A-18 reads as rewritten:

"§ 130A-18. *Injunction.*

(a) If a person shall violate any provision of this Chapter or the rules adopted by the Commission or rules adopted by a local board of health, the Secretary or a local health director may institute an action for injunctive relief, irrespective of all other remedies at law, in the superior court of the county where the violation occurred or where a defendant resides.

(b) The Secretary of the Department of Environment and Natural Resources and a local health director shall have the same rights enumerated in subsection (a) of this section to enforce the provisions of Articles 8, 9, 10, 11, and 12 of this Chapter."

Section 11A.62. G.S. 130A-19 reads as rewritten:

"§ 130A-19. Abatement of public health nuisance.

(a) If the Secretary or a local health director determines that a public health nuisance exists, the Secretary or a local health director may issue an order of abatement directing the owner, lessee, operator or other person in control of the property to take any action necessary to abate the public health nuisance. If the person refuses to comply with the order, the Secretary or the local health director may institute an action in the superior court of the county where the public health nuisance exists to enforce the order. The action shall be calendared for trial within 60 days after service of the complaint upon the defendant. The court may order the owner to abate the nuisance or direct the Secretary or the local health director to abate the nuisance. If the Secretary or the local health director is ordered to abate the nuisance, the Department or the local health department shall have a lien on the property for the costs of the abatement of the nuisance in the nature of a mechanic's and materialmen's lien as provided in Chapter 44A of the General Statutes and the lien may be enforced as provided therein.

(b) The Secretary of Environment and Natural Resources and a local health director shall have the same rights enumerated in subsection (a) of this section to enforce the provisions of Articles 8, 9, 10, 11, and 12 of this Chapter."

Section 11A.63. G.S. 130A-20 reads as rewritten:

"§ 130A-20. Abatement of an imminent hazard.

(a) If the Secretary or a local health director determines that an imminent hazard exists, the Secretary or a local health director may, after notice to or reasonable attempt to notify the owner, enter upon any property and take any action necessary to abate the imminent hazard. The Department or the local health department shall have a lien on the property for the cost of the abatement of the imminent hazard in the nature of a mechanic's and materialmen's lien as provided in Chapter 44A and the lien may be enforced as provided therein. The lien may be defeated by a showing that an imminent hazard did not exist at the time the Secretary or the local health director took the action.

(b) The Secretary of Environment and Natural Resources and a local health director shall have the same rights enumerated in subsection (a) of this section to enforce the provisions of Articles 8, 9, 10, 11, and 12 of this Chapter."

Section 11A.63A. G.S. 130A-21 reads as rewritten:

"§ 130A-21. Embargo.

(a) The Secretary of Environment and Natural Resources and a local health director has authority to exercise embargo authority concerning food or drink pursuant to G.S. 106-125(a), (b) and (c) when delegated the authority by the Commissioner of Agriculture.

(b) If the Secretary of Environment and Natural Resources or a local health director has probable cause to believe that any milk designated as

Grade 'A' milk is misbranded or does not satisfy the milk sanitation rules adopted pursuant to G.S. 130A-275, the Secretary of Environment and Natural Resources or a local health director may detain or embargo the milk by affixing a tag to it and warning all persons not to remove or dispose of the milk until permission for removal or disposal is given by the official by whom the milk was detained or embargoed or by the court. It shall be unlawful for any person to remove or dispose of the detained or embargoed milk without that permission.

The official by whom the milk was detained or embargoed shall petition a judge of the district or superior court in whose jurisdiction the milk is detained or embargoed for an order for condemnation of the article. If the court finds that the milk is misbranded or that it does not satisfy the milk sanitation rules adopted pursuant to G.S. 130A-275, either the milk shall be destroyed under the supervision of the petitioner or the petitioner shall ensure that the milk will not be used for human consumption as Grade 'A' milk. All court costs and fees, storage, expenses of carrying out the court's order and other expense shall be taxed against the claimant of the milk. If, the milk, by proper labelling or processing, can be properly branded and will satisfy the milk sanitation rules adopted pursuant to G.S. 130A-275, the court, after the payment of all costs, fees, and expenses and after the claimant posts an adequate bond, may order that the milk be delivered to the claimant for proper labelling and processing under the supervision of the petitioner. The bond shall be returned to the claimant after the petitioner represents to the court either that the milk is no longer mislabelled or in violation of the milk sanitation rules adopted pursuant to G.S. 130A-275, or that the milk will not be used for human consumption, and that in either case the expenses of supervision have been paid.

(c) If the Secretary of Environment and Natural Resources or a local health director has probable cause to believe that any scallops, shellfish or crustacea is adulterated or misbranded, the Secretary of Environment and Natural Resources or a local health director may detain or embargo the article by affixing a tag to it and warning all persons not to remove or dispose of the article until permission for removal or disposal is given by the official by whom it was detained or embargoed or by the court. It shall be unlawful for any person to remove or dispose of the detained or embargoed article without that permission.

The official by whom the scallops, shellfish or crustacea was detained or embargoed shall petition a judge of the district or superior court in whose jurisdiction the article is detained or embargoed for an order for condemnation of the article. If the court finds that the article is adulterated or misbranded, that article shall be destroyed under the supervision of the petitioner. All court costs and fees, storage and other expense shall be taxed against the claimant of the article. If, the article, by proper labelling can be properly branded, the court, after the payment of all costs, fees, expenses, and an adequate bond, may order that the article be delivered to the claimant for proper labelling under the supervision of the petitioner. The bond shall be returned to the claimant after the petitioner represents to the court that the article is no longer mislabelled and that the expenses of supervision have been paid.

(d) Nothing in this section is intended to limit the embargo authority of the Department of Agriculture. The Department of Human Resources Environment and Natural Resources and the Department of Agriculture are authorized to enter agreements respecting the duties and responsibilities of each agency in the exercise of their embargo authority.

(e) For the purpose of this section, a food or drink is adulterated if the food or drink is deemed adulterated under G.S. 106-129; and food or drink is misbranded if it is deemed misbranded under G.S. 106-130."

Section 11A.64. G.S. 130A-22 reads as rewritten:

"§ 130A-22. *Administrative penalties.*

(a) The Secretary of Environment and Natural Resources may impose an administrative penalty on a person who violates Article 9 of this Chapter, rules adopted by the Commission pursuant to Article 9, or any order issued under Article 9. Each day of a continuing violation shall constitute a separate violation. The penalty shall not exceed five thousand dollars (\$5,000) per day in the case of a violation involving nonhazardous waste. The penalty shall not exceed twenty-five thousand dollars (\$25,000) per day in case of a first violation involving hazardous waste as defined in G.S. 130A-290 or involving the disposal of medical waste as defined in G.S. 130A-290 in or upon water in a manner that results in medical waste entering waters or lands of the State; and shall not exceed fifty thousand dollars (\$50,000) per day for a second or further violation involving the disposal of medical waste as defined in G.S. 130A-290 in or upon water in a manner that results in medical waste entering waters or lands of the State. If a person fails to pay a civil penalty within 60 days after the final agency decision or court order has been served on the violator, the Secretary of Environment and Natural Resources shall request the Attorney General to institute a civil action in the superior court of any county in which the violator resides or has his or its principal place of business to recover the amount of the assessment. Such civil actions must be filed within three years of the date the final agency decision or court order was served on the violator.

(a1) Part 5 of Article 21A of Chapter 143 of the General Statutes shall apply to the determination of civil liability or penalty pursuant to subsection (a) of this section.

(b) The Secretary of Environment and Natural Resources may impose an administrative penalty on a person who violates G.S. 130A-325. Each day of a continuing violation shall constitute a separate violation. The penalty shall not exceed twenty-five thousand dollars (\$25,000) for each day the violation continues.

(b1) The Secretary may impose an administrative penalty on a person who violates Article 19 of this Chapter or a rule adopted pursuant to that Article. Except as provided in subsection (b2) of this section, the penalty shall not exceed one thousand dollars (\$1,000) per day per violation. Until the Department has notified the person of the violation, a continuing violation shall be treated as one violation. Each day thereafter of a continuing violation shall be treated as a separate violation.

In determining the amount of a penalty under this subsection or subsection (b2) of this section, the Secretary shall consider all of the following factors:

- (1) The degree and extent of harm to the natural resources of the State, to the public health, or to private property resulting from the violation.
- (2) The duration and gravity of the violation.
- (3) The effect on air quality.
- (4) The cost of rectifying the damage.
- (5) The amount of money the violator saved by noncompliance.
- (6) The prior record of the violator in complying or failing to comply with Article 19 of this Chapter or a rule adopted pursuant to that Article.
- (7) The cost to the State of the enforcement procedures.
- (8) If applicable, the size of the renovation and demolition involved in the violation.

Administrative penalties imposed by the Secretary under this subsection or subsection (b2) of this section shall be credited to the General Fund as nontax revenue.

(b2) The penalty for violations of the asbestos NESHAP for demolition and renovation, as defined in G.S. 130A-444, shall not exceed ten thousand dollars (\$10,000) per day per violation. Until the Department has provided the person with written notification of the violation of the asbestos NESHAP for demolition and renovation that describes the violation, recommends a general course of action, and establishes a time frame in which to correct the violations, a continuing violation shall be treated as one violation. Each day thereafter of a continuing violation shall be treated as a separate violation. A violation of the asbestos NESHAP for demolition and renovation is not considered to continue during the period a person who has received the notice of violation is following the general course of action and complying with the time frame set forth in the notice of violation.

(c) The Secretary of Environment and Natural Resources may impose an administrative penalty on a person who willfully violates Article 11 of this Chapter, rules adopted by the Commission pursuant to Article 11 or any condition imposed upon a permit issued under Article 11. An administrative penalty may not be imposed upon a person who establishes that neither the site nor the system may be improved or a new system installed so as to comply with Article 11 of this Chapter. Each day of a continuing violation shall constitute a separate violation. The penalty shall not exceed fifty dollars (\$50.00) per day in the case of a wastewater collection, treatment and disposal system with a design daily flow of no more than 480 gallons or in the case of any system serving a single one-family dwelling. The penalty shall not exceed three hundred dollars (\$300.00) per day in the case of a wastewater collection, treatment and disposal system with a design daily flow of more than 480 gallons which does not serve a single one-family dwelling.

(c1) The Secretary may impose a monetary penalty on a vendor who violates rules adopted by the Commission pursuant to Article 13 of this Chapter when the Secretary determines that disqualification would result in hardship to participants in the Women, Infants, and Children (WIC)

program. The penalty shall be calculated using the following formula: multiply five percent (5%) times the average dollar amount of the vendor's monthly redemptions of WIC food instruments for the 12-month period immediately preceding disqualification, then multiply that product by the number of months of the disqualification period determined by the Secretary.

(d) In determining the amount of the penalty in subsections (a), (b) and (c), the Secretary and the Secretary of the Department of Environment and Natural Resources shall consider the degree and extent of the harm caused by the violation and the cost of rectifying the damage.

(e) A person contesting a penalty shall, by filing a petition pursuant to G.S. 150B-23(a) not later than 30 days after receipt by the petitioner of the document which constitutes agency action, be entitled to an administrative hearing and judicial review in accordance with Chapter 150B of the General Statutes, the Administrative Procedure Act.

(f) The Commission shall adopt rules concerning the imposition of administrative penalties under this section.

(g) The Secretary or the Secretary of Environment and Natural Resources may bring a civil action in the superior court of the county where the violation occurred or where the defendant resides to recover the amount of the an administrative penalty authorized under this section whenever a person:

- (1) Who has not requested an administrative hearing in accordance with subsection (e) of this section fails to pay the penalty within 60 days after being notified of the penalty; or
- (2) Who has requested an administrative hearing fails to pay the penalty within 60 days after service of a written copy of the final agency decision.

(h) A local health director may impose an administrative penalty on any person who willfully violates the wastewater collection, treatment, and disposal rules of the local board of health adopted pursuant to G.S. 130A-335(c) or who willfully violates a condition imposed upon a permit issued under the approved local rules. An administrative penalty may not be imposed upon a person who establishes that neither the site nor the system may be improved or a new system installed so as to comply with Article 11 of this Chapter. The local health director shall establish and recover the amount of the administrative penalty in accordance with subsections (d) and (g). Each day of a continuing violation shall constitute a separate violation. The penalty shall not exceed fifty dollars (\$50.00) per day in the case of a wastewater collection, treatment and disposal system with a design daily flow of no more than 480 gallons or in the case of any system serving a single one-family dwelling. The penalty shall not exceed three hundred dollars (\$300.00) per day in the case of a wastewater collection, treatment and disposal system with a design daily flow of more than 480 gallons which does not serve a single one-family dwelling. A person contesting a penalty imposed under this subsection shall be entitled to an administrative hearing and judicial review in accordance with G.S. 130A-24. A local board of health shall adopt rules concerning the imposition of administrative penalties under this subsection."

Section 11A.65. G.S. 130A-23 reads as rewritten:

"§ 130A-23. Suspension and revocation of permits and program participation.

(a) The Secretary may suspend or revoke a permit issued under this Chapter upon a finding that a violation of the applicable provisions of this Chapter, the rules of the Commission or a condition imposed upon the permit has occurred. A permit may also be suspended or revoked upon a finding that its issuance was based upon incorrect or inadequate information that materially affected the decision to issue the permit.

(b) The Secretary may suspend or revoke a person's participation in a program administered under this Chapter upon a finding that a violation of the applicable provisions of this Chapter or the rules of the Commission has occurred. Program participation may also be suspended or revoked upon a finding that participation was based upon incorrect or inadequate information that materially affected the decision to grant program participation.

(c) A person shall be given notice that there has been a tentative decision to suspend or revoke the permit or program participation and that an administrative hearing will be held in accordance with Chapter 150B of the General Statutes, the Administrative Procedure Act, at which time the person may challenge the tentative decision.

(d) A permit shall be suspended or revoked immediately if a violation of the Chapter, the rules or a condition imposed upon the permit presents an imminent hazard. An operation permit issued pursuant to G.S. 130A-281 shall be immediately suspended for failure of a public swimming pool to maintain minimum water quality or safety standards or design and construction standards pertaining to the abatement of suction hazards which result in an unsafe condition. A permit issued pursuant to G.S. 130A-248 shall be revoked immediately for failure of an establishment to maintain a minimum grade of C. The Secretary of Environment and Natural Resources shall immediately give notice of the suspension or revocation and the right of the permit holder or program participant to appeal the suspension or revocation under G.S. 150B-23.

(e) The Secretary of Environment and Natural Resources shall have all of the applicable rights enumerated in this section to enforce the provisions of Articles 8, 9, 10, 11, and 12 of this Chapter."

Section 11A.66. G.S. 130A-24 reads as rewritten:

"§ 130A-24. Appeals procedure.

(a) Appeals concerning the enforcement of rules adopted by the Commission, concerning the suspension and revocation of permits and program participation by the Secretary and concerning the imposition of administrative penalties by the Secretary shall be governed by Chapter 150B of the General Statutes, the Administrative Procedure Act.

(a1) Any person appealing an action taken by the Department pursuant to this Chapter or rules of the Commission shall file a petition for a contested case with the Office of Administrative Hearings as provided in G.S. 150B-23(a). The petition shall be filed not later than 30 days after notice of the action which confers the right of appeal unless a federal statute or regulation provides for a different time limitation. The time limitation imposed under this subsection shall commence when notice of the agency decision is given to all persons aggrieved. Such notice shall be provided to all persons known to the agency by personal delivery or by the placing of notice in an official

depository of the United States Postal Service addressed to the person at the latest address provided to the agency by the person.

(b) Appeals concerning the enforcement of rules adopted by the local board of health and concerning the imposition of administrative penalties by a local health director shall be conducted in accordance with subsections (b), (c) and (d) of this section. The aggrieved person shall give written notice of appeal to the local health director within 30 days of the challenged action. The notice shall contain the name and address of the aggrieved person, a description of the challenged action and a statement of the reasons why the challenged action is incorrect. Upon filing of the notice, the local health director shall, within five working days, transmit to the local board of health the notice of appeal and the papers and materials upon which the challenged action was taken.

(c) The local board of health shall hold a hearing within 15 days of the receipt of the notice of appeal. The board shall give the person not less than 10 days' notice of the date, time and place of the hearing. On appeal, the board shall have authority to affirm, modify or reverse the challenged action. The local board of health shall issue a written decision based on the evidence presented at the hearing. The decision shall contain a concise statement of the reasons for the decision.

(d) A person who wishes to contest a decision of the local board of health under subsection (b) of this section shall have a right of appeal to the district court having jurisdiction within 30 days after the date of the decision by the board. The scope of review in district court shall be the same as in G.S. 150B-51.

(e) The appeals procedures enumerated in this section shall apply to appeals concerning the enforcement of rules, the imposition of administrative penalties, or any other action taken by the Department of Environment and Natural Resources pursuant to Articles 8, 9, 10, 11, and 12 of this Chapter."

Section 11A.67. G.S. 130A-26.1(d) reads as rewritten:

"(d) For the purposes of the felony provisions of this section, a person's state of mind shall not be found 'knowingly and willfully' or 'knowingly' if the conduct that is the subject of the prosecution is the result of any of the following occurrences or circumstances:

- (1) A natural disaster or other act of God which could not have been prevented or avoided by the exercise of due care or foresight.
- (2) An act of third parties other than agents, employees, contractors, or subcontractors of the defendant.
- (3) An act done in reliance on the written advice or emergency on-site direction of an employee of the Department, Department of Environment and Natural Resources. In emergencies, oral advice may be relied upon if written confirmation is delivered to the employee as soon as practicable after receiving and relying on the advice.
- (4) An act causing no significant harm to the environment or risk to the public health, safety, or welfare and done in compliance with other conflicting environmental requirements or other constraints imposed in writing by environmental agencies or officials after

written notice is delivered to all relevant agencies that the conflict exists and will cause a violation of the identified standard.

- (5) Violations of permit limitations causing no significant harm to the environment or risk to the public health, safety, or welfare for which no enforcement action or civil penalty could have been imposed under any written civil enforcement guidelines in use by the ~~Department~~ Department of Environment and Natural Resources at the time, including but not limited to, guidelines for the pretreatment permit civil penalties. This subdivision shall not be construed to require the ~~Department~~ Department of Environment and Natural Resources to develop or use written civil enforcement guidelines."

Section 11A.68. G.S. 130A-27 reads as rewritten:

"§ 130A-27. *Recovery of money.*

The Secretary ~~or the Secretary of Environment and Natural Resources~~ may institute an action in the county where the action arose or the county where the defendant resides to recover any money, other property or interest in property or the monetary value of goods or services provided or paid for by the ~~Department or the Department of Environment and Natural Resources~~ which are wrongfully paid or transferred to a person under a program administered by the Department or the Department of Environment and Natural Resources pursuant to this Chapter."

Section 11A.69. G.S. 130A-33.30 reads as rewritten:

"§ 130A-33.30. *Commission of Anatomy -- creation; powers and duties.*

There is ~~hereby~~ created the Commission of Anatomy ~~of in the Department of Environment, Health, and Natural Resources~~ with the power and duty to adopt rules for the distribution of dead human bodies and parts thereof for the purpose of promoting the study of anatomy in the State of North Carolina. The Commission ~~is authorized to~~ may receive dead bodies pursuant to G.S. 130A-415 and to be a donee of a body or parts thereof pursuant to Part 3, Article 16 of Chapter 130A of the General Statutes known as the Uniform Anatomical Gift Act and to distribute such bodies or parts thereof pursuant to the rules adopted by the Commission."

Section 11A.70. G.S. 130A-33.31 reads as rewritten:

"§ 130A-33.31. *Commission of Anatomy -- Members; selection; term; chairman; quorum; meetings.*

(a) The Commission of Anatomy shall consist of five members, one representative from the field of mortuary science, and one each from The University of North Carolina School of Medicine, East Carolina University School of Medicine, Duke University School of Medicine, and Bowman Gray School of Medicine. The dean of each school shall make recommendations and the Secretary ~~of Environment, Health, and Natural Resources~~ shall appoint from such recommendations a member to the Commission. The president of the State Board of Mortuary Science shall appoint the representative from the field of mortuary science to the Commission. The members shall serve terms of four years except two of the original members shall serve a term of one year, one shall serve a term of two years, one shall serve a term of three years, and one shall serve a

term of four years. The Secretary shall determine the terms of the original members.

(b) Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

(c) The Secretary ~~shall have the power to~~ shall remove any member of the Commission from office for misfeasance, malfeasance or nonfeasance.

(d) The Commission shall elect a ~~chairman~~ chair annually from its own membership.

(e) A majority of the Commission shall constitute a quorum for the transaction of business.

(f) The Commission shall meet at any time and place within the State at the call of the ~~chairman~~ chair or upon the written request of three members.

(g) All clerical and other services required by the Commission shall be supplied by the ~~Secretary of Environment, Health, and Natural Resources.~~ Secretary."

Section 11A.71. G.S. 130A-33.40 reads as rewritten:

"§ 130A-33.40. *Governor's Council on Physical Fitness and Health -- creation; powers; duties.*

There is hereby created the Governor's Council on Physical Fitness and Health in the ~~Department of Environment, Health, and Natural Resources.~~ Department. The Council shall have the following functions and duties:

- (1) To promote interest in the area of physical fitness; to consider the need for new State programs in the field of physical fitness; to enlist the active support of individual citizens, professional and civic groups, amateur and professional athletes, voluntary organizations, State and local government agencies, private industry and business, and community recreation programs in efforts to improve the physical fitness and ~~thereby~~ the health of the citizens of North Carolina;
- (2) To examine current programs of physical fitness available to the people of North Carolina, and to make recommendations to the Governor for coordination of programs to prevent duplication of such services; to support programs of physical fitness in the public school systems; to develop cooperative programs with medical, dental, and other groups; to maintain a liaison with government, private and other agencies concerning physical fitness programs; to stimulate research in the area of physical fitness; to sponsor physical fitness workshops, clinics, conferences, and other related activities pertaining to physical fitness throughout the State;
- (3) To serve as an agency for recognizing outstanding developments, contributions, and achievements in physical fitness in North Carolina;
- (3a) To serve as the North Carolina sanctioning body for the State Games and for other competitive athletic events for which sanctioning by the State is required; and
- (4) To make an annual report to the Governor and to the ~~Secretary of Environment, Health, and Natural Resources,~~ Secretary,

including ~~therein~~ suggestions and recommendations for the furtherance of the physical fitness of the people of North Carolina."

Section 11A.72. G.S. 130A-33.41 reads as rewritten:

"§ 130A-33.41. *The Governor's Council on Physical Fitness and Health -- members; selection; quorum; compensation.*

The Governor's Council on Physical Fitness in the Department of ~~Environment, Health, and Natural Resources~~ shall consist of 10 members, including a ~~chairman, chair~~.

- (1) The composition of the Council shall be as follows: one member of the Senate appointed by the President Pro Tempore of the Senate, and one member of the House of Representatives appointed by the Speaker of the House of Representatives, and eight persons from the health care professions, the fields of business and industry, physical education, recreation, sports and the general public. The eight nonlegislative members of the Council shall be appointed by the Governor to serve at his the Governor's pleasure.
- (2) The eight initial nonlegislative members of the Council shall be appointed ~~thusly~~ as follows: two for a term of one year, two for a term of two years, two for a term of three years, two for a term of four years. At the end of the respective terms of office of these initial members, all succeeding appointments of nonlegislative members shall be for terms of four years; nonlegislative members shall serve no more than two consecutive four-year terms; all unexpired terms due to resignation, death, disability, removal or refusal to serve shall be filled by a qualified person appointed by the Governor for the balance of the unexpired term.
- (3) Legislative members of the Council shall serve two-year terms beginning and ending on July 1 of odd-numbered years, and shall serve no more than two consecutive terms.
- (4) Members of the Governor's Council shall receive per diem and necessary travel and subsistence expenses in accordance with G.S. 138-5 or 138-6, or travel and subsistence expenses under G.S. 120-3.1, as appropriate.
- (5) The Council shall meet no more than quarterly.
- (6) A majority of the Governor's Council shall constitute a quorum for the transaction of business."

Section 11A.73. G.S. 130A-33.43 reads as rewritten:

"§ 130A-33.43. *Minority Health Advisory Council.*

There is established the Minority Health Advisory Council in the ~~Department of Environment, Health, and Natural Resources~~. Department. The Council shall have the following duties and responsibilities:

- (1) To make recommendations to the Governor and the Secretary of ~~Environment, Health, and Natural Resources~~ aimed at improving the health status of North Carolina's minority populations;
- (2) To identify and examine the limitations and problems associated with existing laws, regulations, programs and services related to the health status of North Carolina's minority populations;

- (3) To examine the financing and access to health services for North Carolina's minority populations;
- (4) To identify and review health promotion and disease prevention strategies relating to the leading causes of death and disability among minority populations; and
- (5) To advise the Governor and the Secretary of ~~Environment, Health, and Natural Resources~~ upon any matter which the Governor or Secretary may refer to it."

Section 11A.74. G.S. 130A-33.44 reads as rewritten:

"§ 130A-33.44. *Minority Health Advisory Council -- members; selection; quorum; compensation.*

(a) The Minority Health Advisory Council in the Department of ~~Environment, Health, and Natural Resources~~ shall consist of 15 members to be appointed as follows:

- (1) Five members shall be appointed by the Governor. Members appointed by the Governor shall be representatives of the following: health care providers, public health, health related public and private agencies and organizations, community-based organizations, and human resources services agencies and organizations.
- (2) Five members shall be appointed by the Speaker of the House of Representatives, two of whom shall be members of the House of Representatives, and at least one of whom shall be a public member. The remainder of the Speaker's appointees shall be representative of any of the entities named in subdivision (1) of this ~~section~~ subsection.
- (3) Five members shall be appointed by the President Pro Tempore of the Senate, two of whom shall be members of the Senate, and at least one of whom shall be a public member. The remainder of the President Pro Tempore's appointees shall be representative of any of the entities named in subdivision (1) of this ~~section~~ subsection.
- (4) Of the members appointed by the Governor, two shall serve initial terms of one year, two shall serve initial terms of two years, and one shall serve an initial term of three years. Thereafter, the Governor's appointees shall serve terms of four years.
- (5) Of the nonlegislative members appointed by the Speaker of the House of Representatives, two shall serve initial terms of two years, and one shall serve an initial term of three years. Thereafter, nonlegislative members appointed by the Speaker of the House of Representatives shall serve terms of four years. Of the nonlegislative members appointed by the President Pro Tempore of the Senate, two shall serve initial terms of two years, and one shall serve an initial term of three years. Thereafter, nonlegislative members appointed by the President Pro Tempore of the Senate shall serve terms of four years. Legislative members of the Council shall serve two-year terms.

(b) The Chairperson of the Council shall be elected by the Council from among its membership.

(c) The majority of the Council shall constitute a quorum for the transaction of business.

(d) Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5 or G.S. 138-6, or travel and subsistence expenses in accordance with the provisions of G.S. 120-3.1, as applicable.

(e) All clerical support and other services required by the Council shall be provided by the ~~Department of Environment, Health, and Natural Resources, Department.~~

Section 11A.75. G.S. 130A-33.50 reads as rewritten:

"§ 130A-33.50. Advisory Committee on Cancer Coordination and Control established; membership, compensation.

(a) The Advisory Committee on Cancer Coordination and Control is ~~created established in the Department of Environment, Health, and Natural Resources, Department.~~

(b) The Committee shall have 24 members, including the Secretary of the ~~Department of Environment, Health, and Natural Resources, who shall chair the Committee, or the Secretary's designee.~~ The members of the Committee shall elect a chair and vice-chair from among the Committee membership. The Committee shall meet at the call of the chair. Six of the members shall be legislators, three of whom shall be appointed by the Speaker of the House of Representatives, and three of whom shall be appointed by the President Pro Tempore of the Senate. Two of the members shall be cancer survivors, one of whom shall be appointed by the Speaker of the House of Representatives, and one of whom shall be appointed by the President Pro Tempore of the Senate. The remainder of the members shall be appointed by the Governor as follows:

- (1) One member from the Department of ~~Environment, Health, Environment and Natural Resources;~~
- (2) ~~Three members, one from each of the following: the Department of Human Resources, Department, the Department of Public Instruction, and the North Carolina Community College System;~~
- (3) Four members representing the cancer control programs at North Carolina medical schools, one from each of the following: the University of North Carolina at Chapel Hill School of Medicine, the Bowman Gray School of Medicine, the Duke University School of Medicine, and the East Carolina University School of Medicine;
- (4) One member who is an oncology nurse representing the North Carolina Nurses Association;
- (5) One member representing the Cancer Committee of the North Carolina Medical Society;
- (6) One member representing the Old North State Medical Society;
- (7) One member representing the American Cancer Society, North Carolina Division, Inc.;
- (8) One member representing the North Carolina Hospital Association;
- (9) One member representing the North Carolina Association of Local Health Directors;

- (10) One member who is a primary care physician licensed to practice medicine in North Carolina.

Except for the ~~Secretary of the Department of Environment, Health, and Natural Resources, Secretary,~~ the members shall be appointed for staggered four-year terms and until their successors are appointed and qualify. However, the following appointees shall serve initial two-year terms: two of the legislators appointed by the Speaker of the House of Representatives; one of the legislators appointed by the President Pro Tempore of the Senate; the cancer survivor appointed by the President Pro Tempore of the Senate; and the members representing the ~~Department of Human Resources, Department,~~ the Department of Public Instruction, the University of North Carolina at Chapel Hill School of Medicine, the Bowman Gray School of Medicine, the Cancer Committee of the North Carolina Medical Society, the Old North State Medical Society, the North Carolina Hospital Association, and the North Carolina Association of Local Health Directors. The Governor may remove any member of the Committee from office in accordance with the provisions of G.S. 143B-13. Members may succeed themselves for one term and may be appointed again after being off the Committee for one term.

(c) The Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Governor shall make their appointments to the Committee not later than 30 days after the adjournment of the 1993 Regular Session of the General Assembly. A vacancy on the Committee shall be filled by the original appointing authority, using the criteria set out in this section for the original appointment.

(d) To the extent that funds are made available, members of the Committee shall receive per diem and necessary travel and subsistence expenses in accordance with G.S. 138-5.

(e) A majority of the Committee shall constitute a quorum for the transaction of its business.

(f) The Committee may use funds allocated to it to employ an administrative staff person to assist the Committee in carrying out its duties. The ~~Secretary of Environment, Health, and Natural Resources~~ shall provide clerical and other support staff services needed by the Committee."

Section 11A.76. G.S. 130A-131.2 reads as rewritten:

"§ 130A-131.2. *Council role.*

The Council shall advise the ~~Department of Environment, Health, and Natural Resources~~ and the Commission for Health Services on the needs of persons with sickle cell syndrome, and shall make recommendations to meet these needs. Such recommendations shall include but not be limited to recommendations for legislative action and for rules regarding the services of the Sickle Cell Program. The Council shall develop procedures to facilitate its operation. All clerical and other services required by the Council shall be furnished by the ~~Department of Environment, Health, and Natural Resources~~ within budget limitations."

Section 11A.77. G.S. 130A-131.15(c) reads as rewritten:

"(c) The Department shall evaluate all of the adolescent pregnancy prevention projects funded as a result of this program at least yearly and shall report its findings to the Commission for Health Services, the Joint

Legislative Commission on Governmental Operations, and the Chairmen of the House Appropriations Subcommittee on ~~Natural and Economic Resources~~, Health and Human Services, and the Senate Appropriations Committee on ~~Natural and Economic Resources~~ Health and Human Services by April 1 of each year. The evaluation shall be conducted by a firm or individual external to the Department. Any evaluation of these projects shall include a study of the effectiveness of the project in reducing the pregnancy rate within the target population."

Section 11A.77A.G.S. 130A-227 reads as rewritten:

"§ 130A-227. *Department to establish ~~program~~ program; definitions.*

(a) For the purpose of promoting a safe and healthful environment and developing corrective measures required to minimize environmental health hazards, the Department shall establish a sanitation program. The Department shall employ environmental engineers, sanitarians, soil scientists and other scientific personnel necessary to carry out the sanitation provisions of this Chapter and the rules of the Commission.

(b) The following definitions shall apply throughout this Article:

(1) 'Department' means the Department of Environment and Natural Resources.

(2) 'Secretary' means the Secretary of Environment and Natural Resources."

Section 11A.78. G.S. 130A-231 reads as rewritten:

"§ 130A-231. *Agreements between the ~~State Health Director~~ Division of Environmental Health and the Division of Marine Fisheries.*

Nothing in this Part is intended to limit the authority of the Division of Marine Fisheries of the Department of Environment and Natural Resources to regulate aspects of the harvesting, processing and handling of scallops, shellfish and crustacea relating to conservation of the fisheries resources of the State. The ~~State Health Director~~ Division of Environmental Health and the Division of Marine Fisheries are authorized to enter into agreements respecting the duties and responsibilities of each agency as to the harvesting, processing and handling of scallops, shellfish and crustacea."

Section 11A.79. G.S. 130A-235 reads as rewritten:

"§ 130A-235. *Regulation of sanitation in institutions.*

For protection of the public health, the Commission shall adopt rules to establish sanitation requirements for all institutions and facilities at which individuals are provided room or board and for which a license to operate is required to be obtained or a certificate for payment is obtained from the ~~Department of Human Resources~~ Department. The rules shall also apply to facilities that provide room and board to individuals but are exempt from licensure under G.S. 131D-10.4(1). No other State agency may adopt rules to establish sanitation requirements for these institutions and facilities. The ~~Department of Human Resources~~ shall issue a license to operate or a certificate for payment to such an institution or facility only upon compliance with all applicable sanitation rules of the Commission, and the Department of ~~Human Resources~~ may suspend or revoke a license or a certificate for payment for violation of these rules. In adopting rules pursuant to this section, the Commission shall define categories of standards to which such institutions and facilities shall be subject and shall establish criteria for the

placement of any such institution or facility into one of the categories. This section shall not apply to State institutions and facilities subject to inspection under G.S. 130A-5(10)."

Section 11A.80. G.S. 130A-280 reads as rewritten:

"§ 130A-280. *Scope.*

This Article provides for the regulation of public swimming pools in the State as they may affect the public health and safety. As used in this Article, the term 'public swimming pool' means any structure, chamber, or tank containing an artificial body of water used by the public for swimming, diving, wading, recreation, or therapy, together with buildings, appurtenances, and equipment used in connection with the body of water, regardless of whether a fee is charged for its use. The term includes municipal, school, hotel, motel, apartment, boarding house, athletic club, or other membership facility pools and spas. This Article does not apply to a private pool serving a single family dwelling and used only by the residents of the dwelling and their guests. This Article also does not apply to therapeutic pools used in physical therapy programs operated by medical facilities licensed by the Department of ~~Human Resources~~ or operated by a licensed physical therapist, nor to therapeutic chambers drained, cleaned, and refilled after each individual use."

Section 11A.81. G.S. 130A-290(a), as amended by S.L. 1997-27, reads as rewritten:

"(a) Unless a different meaning is required by the context, the following definitions shall apply throughout this Article:

- (1) 'Affiliate' has the same meaning as in 17 Code of Federal Regulations § 240.12b-2 (1 April 1996 Edition).
- (1a) 'CERCLA/SARA' means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Pub. L. No. 96-510, 94 Stat. 2767, 42 U.S.C. § 9601 et seq., as amended, and the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499, 100 Stat. 1613, as amended.
- (1b) 'Chemical or portable toilet' means a self-contained mobile toilet facility and holding tank and includes toilet facilities in recreational vehicles.
- (1c) 'Chlorofluorocarbon refrigerant' means any of the following when used as a liquid heat transfer agent in a mechanical refrigeration system: carbon tetrachloride, chlorofluorocarbons, halons, or methyl chloroform.
- (2) 'Closure' means the cessation of operation of a solid waste management facility and the act of securing the facility so that it will pose no significant threat to human health or the environment.
- (3) 'Commercial' when applied to a hazardous waste facility, means a hazardous waste facility that accepts hazardous waste from the general public or from another person for a fee.
- (4) 'Construction' or 'demolition' when used in connection with 'waste' or 'debris' means solid waste resulting solely from construction, remodeling, repair, or demolition operations on

pavement, buildings, or other structures, but does not include inert debris, land-clearing debris or yard debris.

- (4a) 'Department' means the Department of Environment and Natural Resources.
- (5) Repealed by Session Laws 1995 (Regular Session, 1996), c. 594, s. 1.
- (6) 'Disposal' means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.
- (7) 'Garbage' means all putrescible wastes, including animal offal and carcasses, and recognizable industrial by-products, but excluding sewage and human waste.
- (8) 'Hazardous waste' means a solid waste, or combination of solid wastes, which because of its quantity, concentration or physical, chemical or infectious characteristics may:
- a. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or
 - b. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.
- (9) 'Hazardous waste facility' means a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.
- (10) 'Hazardous waste generation' means the act or process of producing hazardous waste.
- (11) 'Hazardous waste disposal facility' means any facility or any portion of a facility for disposal of hazardous waste on or in land in accordance with rules adopted under this Article.
- (12) 'Hazardous waste management' means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery and disposal of hazardous wastes.
- (13) 'Hazardous waste management program' means the program and activities within the Department pursuant to Part 2 of this Article, for hazardous waste management.
- (13a) 'Industrial solid waste' means solid waste generated by manufacturing or industrial processes that is not hazardous waste.
- (14) 'Inert debris' means solid waste which consists solely of material that is virtually inert and that is likely to retain its physical and chemical structure under expected conditions of disposal.
- (15) 'Land-clearing debris' means solid waste which is generated solely from land-clearing activities.
- (16) 'Landfill' means a disposal facility or part of a disposal facility where waste is placed in or on land and which is not a land

treatment facility, a surface impoundment, an injection well, a hazardous waste long-term storage facility or a surface storage facility.

- (17) 'Manifest' means the form used for identifying the quantity, composition and the origin, routing and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment or storage.
- (18) 'Medical waste' means any solid waste which is generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals, but does not include any hazardous waste identified or listed pursuant to this Article, radioactive waste, household waste as defined in 40 Code of Federal Regulations § 261.4(b)(1) in effect on 1 July 1989, or those substances excluded from the definition of 'solid waste' in this section.
- (18a) 'Municipal solid waste' means any solid waste resulting from the operation of residential, commercial, industrial, governmental, or institutional establishments that would normally be collected, processed, and disposed of through a public or private solid waste management service. Municipal solid waste does not include hazardous waste, sludge, industrial waste managed in a solid waste management facility owned and operated by the generator of the industrial waste for management of that waste, or solid waste from mining or agricultural operations.
- (18b) 'Municipal solid waste management facility' means any publicly or privately owned solid waste management facility permitted by the Department that receives municipal solid waste for processing, treatment, or disposal.
- (19) 'Natural resources' means all materials which have useful physical or chemical properties which exist, unused, in nature.
- (20) 'Open dump' means a solid waste disposal site which is not a sanitary landfill.
- (21) 'Operator' means any person, including the owner, who is principally engaged in, and is in charge of, the actual operation, supervision, and maintenance of a solid waste management facility and includes the person in charge of a shift or periods of operation during any part of the day.
- (21a) 'Parent' has the same meaning as in 17 Code of Federal Regulations § 240.12b-2 (1 April 1996 Edition).
- (22) 'Person' means an individual, corporation, company, association, partnership, unit of local government, State agency, federal agency or other legal entity.
- (23) 'Processing' means any technique designed to change the physical, chemical, or biological character or composition of any solid waste so as to render it safe for transport; amenable to recovery, storage or recycling; safe for disposal; or reduced in volume or concentration.

- (24) 'Recovered material' means a material that has known recycling potential, can be feasibly recycled, and has been diverted or removed from the solid waste stream for sale, use, or reuse. In order to qualify as a recovered material, a material must meet the requirements of G.S. 130A-309.05(c).
- (25) 'RCRA' means the Resource Conservation and Recovery Act of 1976, Pub. L. 94-580, 90 Stat. 2795, 42 U.S.C. § 6901 et seq., as amended.
- (26) 'Recyclable material' means those materials which are capable of being recycled and which would otherwise be processed or disposed of as solid waste.
- (27) 'Recycling' means any process by which solid waste, or materials which would otherwise become solid waste, are collected, separated, or processed, and reused or returned to use in the form of raw materials or products.
- (28) 'Refuse' means all nonputrescible waste.
- (28a) 'Refuse-derived fuel' means fuel that consists of municipal solid waste from which recyclable and noncombustible materials are removed so that the remaining material is used for energy production.
- (29) 'Resource recovery' means the process of obtaining material or energy resources from discarded solid waste which no longer has any useful life in its present form and preparing the solid waste for recycling.
- (30) 'Reuse' means a process by which resources are reused or rendered usable.
- (31) 'Sanitary landfill' means a facility for disposal of solid waste on land in a sanitary manner in accordance with the rules concerning sanitary landfills adopted under this Article.
- (31a) 'Secretary' means the Secretary of Environment and Natural Resources.
- (32) 'Septage' means solid waste that is a fluid mixture of untreated and partially treated sewage solids, liquids, and sludge of human or domestic origin which is removed from a wastewater system. The term septage includes the following:
- a. Domestic septage, which is either liquid or solid material removed from a septic tank, cesspool, portable toilet, Type III marine sanitation device, or similar treatment works receiving only domestic sewage. Domestic septage does not include liquid or solid material removed from a septic tank, cesspool, or similar treatment works receiving either commercial wastewater or industrial wastewater and does not include grease removed from a grease trap at a restaurant.
 - b. Domestic treatment plant septage, which is solid, semisolid, or liquid residue generated during the treatment of domestic sewage in a treatment works where the designed disposal is subsurface. Domestic treatment plant septage includes, but is not limited to, scum or solids removed in primary, secondary, or advanced wastewater treatment processes and a

material derived from domestic treatment plant septage. Domestic treatment plant septage does not include ash generated during the firing of domestic treatment plant septage in an incinerator or grit and screenings generated during preliminary treatment of domestic sewage in a treatment works.

- c. Grease septage, which is material pumped from grease interceptors, separators, traps, or other appurtenances used for the purpose of removing cooking oils, fats, grease, and food debris from the waste flow generated from food handling, preparation, and cleanup.
 - d. Industrial or commercial septage, which is material pumped from septic tanks or other devices used in the collection, pretreatment, or treatment of any water-carried waste resulting from any process of industry, manufacture, trade, or business where the design disposal of the wastewater is subsurface. Domestic septage mixed with any industrial or commercial septage is considered industrial or commercial septage.
 - e. Industrial or commercial treatment plant septage, which is solid, semisolid, or liquid residue generated during the treatment of sewage that contains any waste resulting from any process of industry, manufacture, trade, or business in a treatment works where the designed disposal is subsurface. Industrial or commercial treatment plant septage includes, but is not limited to, scum or solids removed in primary, secondary, or advanced wastewater treatment processes and a material derived from domestic treatment plant septage. Industrial or commercial treatment plant septage does not include ash generated during the firing of industrial or commercial treatment plant septage in an incinerator or grit and screenings generated during preliminary treatment of domestic sewage in a treatment works.
- (33) 'Septage management firm' means a person engaged in the business of pumping, transporting, storing, treating or disposing septage. The term does not include public or community wastewater systems that treat or dispose septage.
- (34) 'Sludge' means any solid, semisolid or liquid waste generated from a municipal, commercial, institutional or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility, or any other waste having similar characteristics and effects.
- (35) 'Solid waste' means any hazardous or nonhazardous garbage, refuse or sludge from a waste treatment plant, water supply treatment plant or air pollution control facility, domestic sewage and sludges generated by the treatment thereof in sanitary sewage collection, treatment and disposal systems, and other material that is either discarded or is being accumulated, stored or treated prior to being discarded, or has served its original

intended use and is generally discarded, including solid, liquid, semisolid or contained gaseous material resulting from industrial, institutional, commercial and agricultural operations, and from community activities. The term does not include:

- a. Fecal waste from fowls and animals other than humans.
- b. Solid or dissolved material in:
 1. Domestic sewage and sludges generated by treatment thereof in sanitary sewage collection, treatment and disposal systems which are designed to discharge effluents to the surface waters.
 2. Irrigation return flows.
 3. Wastewater discharges and the sludges incidental to and generated by treatment which are point sources subject to permits granted under Section 402 of the Water Pollution Control Act, as amended (P.L. 92-500), and permits granted under G.S. 143-215.1 by the Environmental Management Commission. However, any sludges that meet the criteria for hazardous waste under RCRA shall also be a solid waste for the purposes of this Article.
- c. Oils and other liquid hydrocarbons controlled under Article 21A of Chapter 143 of the General Statutes. However, any oils or other liquid hydrocarbons that meet the criteria for hazardous waste under RCRA shall also be a solid waste for the purposes of this Article.
- d. Any source, special nuclear or byproduct material as defined by the Atomic Energy Act of 1954, as amended (42 U.S.C. § 2011).
- e. Mining refuse covered by the North Carolina Mining Act, G.S. 74-46 through 74-68 and regulated by the North Carolina Mining Commission (as defined under G.S. 143B-290). However, any specific mining waste that meets the criteria for hazardous waste under RCRA shall also be a solid waste for the purposes of this Article.
- f. Recovered material.

- (36) 'Solid waste disposal site' means any place at which solid wastes are disposed of by incineration, sanitary landfill or any other method.
- (37) 'Solid waste generation' means the act or process of producing solid waste.
- (38) 'Solid waste management' means purposeful, systematic control of the generation, storage, collection, transport, separation, treatment, processing, recycling, recovery and disposal of solid waste.
- (39) 'Solid waste management facility' means land, personnel and equipment used in the management of solid waste.
- (40) 'Special wastes' means solid wastes that can require special handling and management, including white goods, whole tires, used oil, lead-acid batteries, and medical wastes.

- (41) 'Storage' means the containment of solid waste, either on a temporary basis or for a period of years, in a manner which does not constitute disposal.
- (41a) 'Subsidiary' has the same meaning as in 17 Code of Federal Regulations § 240.12b-2 (1 April 1996 Edition).
- (41b) 'Tire-derived fuel' means a form of fuel derived from scrap tires.
- (42) 'Treatment' means any method, technique or process, including neutralization, designed to change the physical, chemical or biological character or composition of any hazardous waste so as to neutralize such waste or so as to render such waste nonhazardous, safer for transport, amenable for recovery, amenable for storage or reduced in volume. 'Treatment' includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous.
- (43) 'Unit of local government' means a county, city, town or incorporated village.
- (44) 'White goods' includes refrigerators, ranges, water heaters, freezers, unit air conditioners, washing machines, dishwashers, clothes dryers, and other similar domestic and commercial large appliances.
- (45) 'Yard trash' means solid waste consisting solely of vegetative matter resulting from landscaping maintenance."

Section 11A.81A. G.S. 130A-313, as amended by S.L. 1997-30, reads as rewritten:

"§ 130A-313. Definitions.

The following definitions shall apply throughout this Article:

- (1) 'Administrator' means the Administrator of the United States Environmental Protection Agency.
- (2) 'Certified laboratory' means a facility for performing bacteriological, chemical or other analyses on water which has received interim or final certification by either the Environmental Protection Agency or the Department.
- (3) 'Contaminant' means any physical, chemical, biological or radiological substance or matter in water.
- (3a) 'Department' means the Department of Environment and Natural Resources.
- (4) 'Drinking water rules' means rules adopted pursuant to this Article.
- (5) 'Federal act' means the Safe Drinking Water Act of 1974, P.L. 93-523, as amended.
- (6) 'Federal agency' means any department, agency or instrumentality of the United States.
- (7) 'Maximum contaminant level' means the maximum permissible level of a contaminant in water which is delivered to any user of a public water system.

- (8) 'National primary drinking water regulations' means primary drinking water regulations promulgated by the Administrator pursuant to the federal act.
- (9) 'Person' means an individual, corporation, company, association, partnership, unit of local government, State agency, federal agency or other legal entity.
- (10) 'Public water system' means a system for the provision to the public of water for human consumption through pipes or other constructed conveyances if the system serves 15 or more service connections or which regularly serves 25 or more individuals. The term includes:

- a. Any collection, treatment, storage or distribution facility under control of the operator of the system and used primarily in connection with the system; and
- b. Any collection or pretreatment storage facility not under the control of the operator of the system that is used primarily in connection with the system.

A public water system is either a 'community water system' or a 'noncommunity water system' as follows:

- a. 'Community water system' means a public water system that serves 15 or more service connections or which regularly serves at least 25 year-round residents.
- b. 'Noncommunity water system' means a public water system that is not a community water system.

A connection to a system that delivers water by a constructed conveyance other than a pipe is not a connection within the meaning of this subdivision under any one of the following circumstances:

- a. The water is used exclusively for purposes other than residential uses. As used in this subdivision, 'residential uses' mean drinking, bathing, cooking, or other similar uses.
- b. The Department determines that alternative water to achieve the equivalent level of public health protection pursuant to applicable drinking water rules is provided for residential uses.
- c. The Department determines that the water provided for residential uses is centrally treated or treated at the point of entry by the provider, a pass-through entity, or the user to achieve the equivalent level of protection provided by the applicable drinking water rules.

(10a) 'Secretary' means the Secretary of Environment and Natural Resources.

- (11) 'Supplier of water' means a person who owns, operates or controls a public water system.
- (12) 'Treatment technique requirement' means a requirement of the drinking water rules which specifies a specific treatment technique for a contaminant which leads to reduction in the level

of the contaminant sufficient to comply with the drinking water rules.

Section 11A.82. G.S. 130A-334 reads as rewritten:

"§ 130A-334. *Definitions.*

The following definitions shall apply throughout this Article:

- (1) 'Construction' means any work at the site of placement done for the purpose of preparing a residence, place of business or place of public assembly for initial occupancy, or subsequent additions or modifications which increase sewage flow.
- (1a) 'Department' means the Department of Environment and Natural Resources.
- (2) Repealed by Session Laws 1985, c. 462, s. 18.
- (2a) 'Industrial process wastewater' means any water-carried waste resulting from any process of industry, manufacture, trade, or business.
- (3) 'Location' means the initial placement for occupancy of a residence, place of business or place of public assembly.
- (3a) 'Maintenance' means normal or routine maintenance including replacement of broken pipes, cleaning, or adjustment to an existing wastewater system.
- (4). (5) Repealed by Session Laws 1985, c. 462, s. 18.
- (6) 'Place of business' means a store, warehouse, manufacturing establishment, place of amusement or recreation, service station, office building or any other place where people work.
- (7) 'Place of public assembly' means a fairground, auditorium, stadium, church, campground, theater or any other place where people assemble.
- (7a) 'Plat' means a property survey prepared by a registered land surveyor, drawn to a scale of one inch equals no more than 60 feet, that includes: the specific location of the proposed facility and appurtenances, the site for the proposed wastewater system, and the location of water supplies and surface waters. 'Plat' also means, for subdivision lots approved by the local planning authority and recorded with the county register of deeds, a copy of the recorded subdivision plat that is accompanied by a site plan that is drawn to scale.
- (7b) 'Pretreatment' means any biological, chemical, or physical process or system for improving wastewater quality and reducing wastewater constituents prior to final treatment and disposal in a subsurface wastewater system and includes, but is not limited to aeration, clarification, digestion, disinfection, filtration, separation, and settling.
- (8) 'Public or community wastewater system' means a single system of wastewater collection, treatment and disposal owned and operated by a sanitary district, a metropolitan sewage district, a water and sewer authority, a county or municipality or a public utility.
- (9) 'Relocation' means the displacement of a residence or place of business from one site to another.

- (9a) 'Repair' means the extension, alteration, replacement, or relocation of existing components of a wastewater system.
- (10) 'Residence' means a private home, dwelling unit in a multiple family structure, hotel, motel, summer camp, labor work camp, manufactured home, institution or any other place where people reside.
- (10a) 'Secretary' means the Secretary of Environment and Natural Resources.
- (11) Repealed by Session Laws 1992, c. 944, s. 3.
- (12) 'Septic tank system' means a subsurface wastewater system consisting of a settling tank and a subsurface disposal field.
- (13) 'Sewage' means the liquid and solid human body waste and liquid waste generated by water-using fixtures and appliances, including those associated with foodhandling. The term does not include industrial process wastewater or sewage that is combined with industrial process wastewater.
- (13a) 'Site plan' means a drawing not necessarily drawn to scale that shows the existing and proposed property lines with dimensions, the location of the facility and appurtenances, the site for the proposed wastewater system, and the location of water supplies and surface waters.
- (14) 'Wastewater' means any sewage or industrial process wastewater discharged, transmitted, or collected from a residence, place of business, place of public assembly, or other places into a wastewater system.
- (15) 'Wastewater system' means a system of wastewater collection, treatment, and disposal in single or multiple components, including a privy, septic tank system, public or community wastewater system, wastewater reuse or recycle system, mechanical or biological wastewater treatment system, any other similar system, and any chemical toilet used only for human waste."

Section 11A.83. G.S. 130A-336(d) reads as rewritten:

"(d) If a local health department repeatedly fails to issue or deny improvement permits for conventional septic tank systems within 60 days of receiving completed applications for the permits, then the Department of Environment, Health, and Natural Resources of Environment and Natural Resources may withhold public health funding from that local health department."

Section 11A.83A. G.S. 130A-346 reads as rewritten:

"§ 130A-346. Mosquito and vector control program; definitions.

(a) The Department shall establish and administer a vector control program to protect the public health and to promote an environment suitable for habitation. A vector is a living transporter and transmitter of the causative agent of a disease. The program shall address the problems presented by vectors and other arthropods and rodents of public health significance in this State, including, but not limited to, mosquitoes, ticks, rodents, fleas and flies. The Department is authorized to engage in research,

conduct investigations and surveillance, implement a vector control program and take other actions necessary to control vectors.

(b) The Commission shall adopt rules necessary to implement the program including rules for the control of vectors and other arthropods and rodents.

(c) The following definitions shall apply throughout this Article:

(1) 'Department' means the Department of Environment and Natural Resources.

(2) 'Secretary' means the Secretary of Environment and Natural Resources."

Section 11A.84. G.S. 130A-342(c) reads as rewritten:

"(c) The performance of individual aerobic treatment plants is to be documented by the counties and sent to the Department of ~~Environment, Health, and Natural Resources~~ annually."

Section 11A.85. G.S. 130A-423 reads as rewritten:

"§ 130A-423. *North Carolina Childhood Vaccine-Related Injury Compensation Program; exclusive remedy; relationship to federal law; subrogation.*

(a) There is established the North Carolina Childhood Vaccine-Related Injury Compensation Program.

(b) The rights and remedies granted the claimant, the claimant's parent, guardian ad litem, guardian, or personal representative shall exclude all other rights and remedies of the claimant, his parent, guardian ad litem, guardian, or personal representative against any respondent at common law or otherwise on account of ~~such~~ injury, illness, disability, death, or condition. If ~~such~~ an action is filed, it shall be dismissed, with prejudice, on the motion of any party under law.

(b1) A claimant may file a petition pursuant to this Article only after ~~such~~ the claimant has filed an election pursuant to Section 2121 of the Public Health Service Act, P.L. 99-660, permitting ~~such~~ the claimant to file a civil action for damages for a vaccine-related injury or death or if ~~such~~ the claimant is otherwise permitted by federal law to file an action against a vaccine manufacturer.

(c) Nothing in this Article prohibits any individual from bringing a civil action against a vaccine manufacturer for damages for a vaccine-related injury or death if the action is not barred by federal law under subtitle 2 of Title XXI of the Public Health Service Act.

(d) If any action is brought against a vaccine manufacturer as permitted by subtitle 2 of Title XXI of the Public Health Service Act and subsection (c) of this section, the plaintiff in the action may recover damages only to the extent permitted by subdivisions (1) through (3) of subsection (a) of G.S. 130A-427. The aggregate amount awarded in any ~~such~~ action may not exceed the limitation established by subsection (b) of G.S. 130A-427. Regardless of whether ~~such~~ an action is brought against a vaccine manufacturer, a claimant who has filed an election pursuant to Section 2121 of the Public Health Service Act, as enacted into federal law by Public Law 99-660, permitting ~~such~~ a claimant to file a civil action for damages for a vaccine-related injury or death, or who is otherwise permitted by federal law to file an action against a vaccine manufacturer, may file a petition pursuant to G.S. 130A-425 to obtain services from the Department ~~and the~~

~~Department of Human Resources~~ pursuant to subdivision (5) of subsection (a) of G.S. 130A-427 and, if no action has been brought against a vaccine manufacturer, to obtain other relief available pursuant to G.S. 130A-427.

(e) In order to prevent recovery of duplicate damages, or the imposition of duplicate liability, in the event that an individual seeks an award pursuant to G.S. 130A-427 and also files suit against the manufacturer as permitted by subtitle 2 of Title XXI of the Public Health Service Act and subsection (c) of this section, the following provisions shall apply:

(1) If, at the time an award is made pursuant to G.S. 130A-427, an individual has already recovered damages from a manufacturer pursuant to a judgment or settlement, the award shall consist only of a commitment to provide services pursuant to subdivision (5) of subsection (a) of G.S. 130A-427.

(2) If, at any time after an award is made to a claimant pursuant to G.S. 130A-427, an individual recovers damages for the same vaccine-related injury from a manufacturer pursuant to a judgment or settlement, the individual who recovers the damages shall reimburse the State for all amounts previously recovered from the State in the prior proceeding. Before a defendant in any action for a vaccine-related injury pays any amount to a plaintiff to discharge a judgment or settlement, he shall request from the Secretary ~~and the Secretary of Human Resources~~ a statement itemizing any reimbursement owed by the plaintiff pursuant to this subdivision, and, if any reimbursement is owed by the plaintiff to ~~either department, the Department~~, the defendant shall pay the reimbursable amounts, as determined by ~~each the Secretary, directly to the department to which such reimbursement is owed. Department.~~ This payment shall discharge the plaintiff's obligations to the State under this subdivision and any obligation the defendant may have to the plaintiff with respect to these amounts.

(3) If:

- a. An award has been made to a claimant for an element of damages pursuant to G.S. 130A-427; and
 - b. An individual has recovered for the same element of damages pursuant to a judgment in, or settlement of, an action for the same vaccine-related injury brought against a manufacturer, and that amount has not been remitted to the State pursuant to subdivision (2) of this subsection; and
 - c. The State seeks to recover the amounts it paid in an action it brings against the manufacturer pursuant to G.S. 130A-430;
- any judgment obtained by the State under G.S. 130A-430 shall be reduced by the amount necessary to prevent the double recovery of any element of damages from the manufacturer. Nothing in this subdivision limits the State's right to obtain reimbursement from a claimant under subdivision (2) of this subsection with respect to any double payment that might be received by the claimant.

(f) Subrogation claims pursued under the National Childhood Vaccine Injury Act of 1986 shall be filed with the appropriate court, not with the Industrial Commission."

Section 11A.86. G.S. 130A-427 reads as rewritten:

"§ 130A-427. *Commission awards for vaccine-related injuries; duties of Secretary.*

(a) Upon determining that a claimant has sustained a vaccine-related injury, the Commission shall make an award providing compensation or services for any or all of the following:

- (1) Actual and projected reasonable expenses of medical care, developmental evaluation, special education, vocational training, physical, emotional or behavioral therapy, and residential and custodial care and service expenses, that cannot be provided by the ~~Department and the Department of Human Resources~~ pursuant to subdivision (5) of this subsection;
- (2) Loss of earnings and projected earnings, determined in accordance with generally accepted actuarial principles;
- (3) Noneconomic, general damages arising from pain, suffering, and emotional distress;
- (4) Reasonable attorneys fees;
- (5) Needs that the Secretary ~~and the Secretary of Human Resources~~ determines on a case-by-case basis shall be met by medical, health, developmental evaluation, special education, vocational training, physical, emotional, or behavioral therapy, residential and custodial care, and other essential and necessary services, to be provided the injured party by the programs and services administered by the ~~Department and the Department of Human Resources. Department.~~ The Secretary ~~and the Secretary of Human Resources~~ shall develop an itemized list of the service needs of the injured party upon review and evaluation of the injured party's medical record and shall present it to the Commission prior to the Commission's determination. In the event that the Commission's award includes the provision of any of these services, the Secretary ~~and the Secretary of Human Resources~~ shall develop a comprehensive, coordinated plan for the delivery of these services to the injured party. Notwithstanding any other provision of State law, the Secretary ~~and the Secretary of Human Resources~~ shall waive all eligibility criteria in determining eligibility for services provided by the ~~Department and the Department of Human Resources~~ under the plan of care developed pursuant to this subdivision. If the award includes any such services, these services shall be provided by the Department ~~and the Department of Human Resources~~ free of any cost to the injured party.

(b) The money compensation component of the award may not be made pursuant to this section in excess of an aggregate amount of the present day value amount of three hundred thousand dollars (\$300,000) with respect to all injuries claimed to have resulted from the administration of a covered vaccine to a single individual. The value of all services to be provided by

~~the Department and the Department of Human Resources, Department,~~ as part of this award is in addition to the total amount of money compensation, and is not included in the limitation prescribed by this subsection on the amount of money compensation that may be awarded. No damages may be awarded pursuant to subdivision (a)(3) on behalf of any person to whom the covered vaccine was not administered."

Section 11A.87. G.S. 130A-430 reads as rewritten:

"§ 130A-430. *Right of State to bring action against health care provider and manufacturer.*

(a) If the Industrial Commission makes an award for a claimant who it determines has sustained a vaccine-related injury, the State may, within two years of the date the Commission renders its decision, bring an action against the health care provider who administered the vaccine on the ground that the health care provider was negligent in administering the vaccine. Damages in an action brought under this section are limited to the amount of the award made by the Commission plus the estimated present value of all the services to be provided to the claimant by the Department ~~and the Department of Human Resources~~ under G.S. 130A-427.

(b) Manufacturer. -- If the Industrial Commission makes an award for a claimant who it determines has sustained a vaccine-related injury, the State may, within two years of the date the Commission renders its decision, bring an action against the manufacturer who made the vaccine on the ground that the vaccine was a defective product. Damages in an action brought under this section are limited to the amount of the award made by the Commission plus the estimated present value of all the services to be provided to the claimant by the Department ~~and the Department of Human Resources~~ under G.S. 130A-427, the reasonable costs of prosecuting the action, including, but not limited to, attorneys fees, fees charged by witnesses, and costs of exhibits. For purposes of this subsection, a defective product is a covered vaccine that was manufactured, transported, or stored in a negligent manner, or was distributed after its expiration date, or that otherwise violated the applicable requirements of any license, approval, or permit, or any applicable standards or requirements issued under Section 351 of the Public Health Service Act, as amended, or the federal Food, Drug, and Cosmetic Act, as these standards or requirements were interpreted or applied by the federal agency charged with their enforcement. The negligence or other action in violation of applicable federal standards or requirements shall be demonstrated by the State, by a preponderance of the evidence, to be the proximate cause of the injury for which an award was rendered pursuant to G.S. 130A-427, in order to allow recovery by the State against the manufacturer pursuant to this subsection."

Section 11A.88. G.S. 130A-434(b) reads as rewritten:

"(b) Should the Department find that the sum of appropriations and receipts is insufficient to meet financial obligations incurred in the administration of this article, appropriations and receipts in the Department ~~and in the Department of Human Resources~~ which would otherwise revert to the General Fund may be transferred to the Child Vaccine Injury Compensation Fund in order to meet such obligations. The Department may also budget anticipated receipts as needed to implement this Article."

Section 11A.89. G.S. 131D-10.3A, as amended by S.L. 1997-140, reads as rewritten:

"§ 131D-10.3A. *Mandatory criminal checks.*

(a) Effective January 1, 1996, in order to ensure the safety and well-being of any child placed for foster care in a home, the Department shall ensure that the criminal histories of all foster parents, individuals applying for licensure as foster parents, and individuals 18 years of age or older who reside in a family foster home, are checked and, based on the criminal history check, a determination is made as to whether the foster parents, and other individuals required to be checked, are fit for a foster child to reside with them in the home. The Department shall ensure that, as of the effective date of this act, Article all individuals required to be checked are checked for county, state, and federal criminal histories.

(b) The Department shall ensure that all individuals who are required to be checked pursuant to subsection (a) of this section are checked annually upon relicensure for county and State criminal histories.

(c) The Department may prohibit an individual from providing foster care by denying or revoking the license to provide foster care if the Department determines that the safety and well-being of a child placed in the home for foster care would be at risk based on the criminal history of the individuals required to be checked pursuant to subsection (a) of this section.

(d) The Department of Justice shall provide to the Department of Human Resources the criminal history of the individuals specified in subsection (a) of this section obtained from the State and National Repositories of Criminal Histories as requested by the Department. The Department shall provide to the Department of Justice, along with the request, the fingerprints of the individual to be checked, any additional information required by the Department of Justice, and a form consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories signed by the individual to be checked. The fingerprints of the individual to be checked shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check.

(e) At the time of application, the individual whose criminal history is to be checked shall be furnished with a statement substantially similar to the following:

‘NOTICE
MANDATORY CRIMINAL HISTORY CHECK

NORTH CAROLINA LAW REQUIRES THAT A CRIMINAL
HISTORY CHECK BE CONDUCTED ON ALL PERSONS 18
YEARS OF AGE OR OLDER WHO RESIDE IN A LICENSED
FAMILY FOSTER HOME.

"Criminal history" includes any county, state, and federal convictions or pending indictments of any crime, of any of the following crimes: the following Articles of Chapter 14 of the General

Statutes: Article 6, Homicide; Article 7A, Rape and Kindred Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 26, Offenses Against Public Morality and Decency; Article 27, Prostitution; Article 39, Protection of Minors; Article 40, Protection of the Family; and Article 59, Public Intoxication; violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5; or similar crimes under federal law or under the laws of other states. Your fingerprints will be used to check the criminal history records of the State Bureau of Investigation (SBI) and the Federal Bureau of Investigation (FBI).

If it is determined, based on your criminal history, that you are unfit to have a foster child reside with you, you shall have the opportunity to complete or challenge the accuracy of the information contained in the SBI or FBI identification records.

If licensure is denied or the foster home license is revoked by the Department of ~~Human Resources~~ Health and Human Services as a result of the criminal history check, if you are a foster parent, or are applying to become a foster parent, you may request a hearing pursuant to Article 3 of Chapter 150B of the General Statutes, the Administrative Procedure Act.

Any person who intentionally falsifies any information required to be furnished to conduct the criminal history is guilty of a Class 2 misdemeanor.'

Refusal to consent to a criminal history check is grounds for the Department to deny or revoke a license to provide foster care. Any person who intentionally falsifies any information required to be furnished to conduct the criminal history is guilty of a Class 2 misdemeanor.

(f) The Department shall notify in writing the foster parent and any person applying to be licensed as a foster parent, and that individual's supervising agency of the determination by the Department of whether the foster parent is qualified to provide foster care based on the criminal history of all individuals required to be checked. In accordance with the law regulating the dissemination of the contents of the criminal history file furnished by the Federal Bureau of Investigation, the Department shall not release nor disclose any portion of an individual's criminal history to the foster parent or any other individual required to be checked. The Department shall also notify the individual of the individual's right to review the criminal history information, the procedure for completing or challenging the accuracy of the criminal history, and the foster parent's right to contest the Department's determination.

A foster parent who disagrees with the Department's decision may request a hearing pursuant to Chapter 150B of the General Statutes, the Administrative Procedure Act.

(g) All the information that the Department receives through the checking of the criminal history is privileged information and is not a public record

but is for the exclusive use of the Department and those persons authorized under this section to receive the information. The Department may destroy the information after it is used for the purposes authorized by this section after one calendar year.

(h) There is no liability for negligence on the part of a supervising agency, or a State or local agency, or the employees of a State or local agency, arising from any action taken or omission by any of them in carrying out the provisions of this section. The immunity established by this subsection shall not extend to gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable. The immunity established by this subsection shall be deemed to have been waived to the extent of indemnification by insurance, indemnification under Article 31A of Chapter 143 of the General Statutes, and to the extent sovereign immunity is waived under the Torts Claim Act, as set forth in Article 31 of Chapter 143 of the General Statutes.

(i) The Department of Justice shall perform the State and national criminal history checks on individuals required by this section and shall charge the Department of ~~Human Resources~~ a reasonable fee only for conducting the checks of the national criminal history records authorized by this section. The Division of Social Services, Department of Human Resources, Health and Human Services, shall bear the costs of implementing this section."

Section 11A.90. G.S. 131E-136 reads as rewritten:

"§ 131E-136. *Definitions.*

As used in this Part, unless otherwise specified:

- (1) 'Commission' means the North Carolina Medical Care Commission.
- (2) 'Home care agency' means a private or public organization which provides home care services.
- (3) 'Home care services' means any of the following services and directly related medical supplies and appliances, which are provided to an individual in a place of temporary or permanent residence used as an individual's home:
 - a. Nursing care provided by or under the supervision of a registered nurse;
 - b. Physical, occupational, or speech therapy, when provided to an individual who also is receiving nursing services, or any other of these therapy services, in a place of temporary or permanent residence used as the individual's home;
 - c. Medical social services;
 - d. In-home aide services that involve hands-on care to an individual;
 - e. Infusion nursing services; and
 - f. Assistance with pulmonary care, pulmonary rehabilitation or ventilation.

The term does not include: health promotion, preventative health and community health services provided by public health departments; maternal and child health services provided by public health departments, by employees of the Department of

~~Environment, Health, and Natural Resources~~ Health and Human Services under G.S. 130A-124, or by developmental evaluation centers under contract with the Department of ~~Environment, Health, and Natural Resources~~ Health and Human Services to provide services under G.S. 130A-124; hospitals licensed under Article 5 of Chapter 131E of the General Statutes when providing follow-up care initiated to patients within six months after their discharge from the hospital; facilities and programs operated under the authority of G.S. 122C and providing services within the scope of G.S. 122C; schools, when providing services pursuant to Article 9 of Chapter 115C; the practice of midwifery by a person licensed under Article 10A of Chapter 90 of the General Statutes; hospices licensed under Article 10 of Chapter 131E of the General Statutes when providing care to a hospice patient; an individual who engages solely in providing his own services to other individuals; incidental health care provided by an employee of a physician licensed to practice medicine in North Carolina in the normal course of the physician's practice; or nursing registries if the registry discloses to a client or the client's responsible party, before providing any services, that (i) it is not a licensed home care agency, and (ii) it does not make any representations or guarantees concerning the training, supervision, or competence of the personnel provided.

- (4) 'Home health agency' means a home care agency which is certified to receive Medicare and Medicaid reimbursement for providing nursing care, therapy, medical social services, and home health aide services on a part-time, intermittent basis as set out in G.S. 131E-176(12), and is thereby also subject to Article 9 of Chapter 131E."

Section 11A.91. The heading for Article 1 of Chapter 134A of the General Statutes reads as rewritten:

"ARTICLE 1.

"Division of Youth Services in the Department of ~~Human Resources, Health and Human Services.~~"

Section 11A.92. The heading for Article 7 of Chapter 143 of the General Statutes reads as rewritten:

"ARTICLE 7.

"Persons Admitted to Department of ~~Human Resources~~ Health and Human Services

Institutions to Pay Costs."

Section 11A.93. G.S. 143-138(b) reads as rewritten:

"(b) Contents of the Code. -- The North Carolina State Building Code, as adopted by the Building Code Council, may include reasonable and suitable classifications of buildings and structures, both as to use and occupancy; general building restrictions as to location, height, and floor areas; rules for the lighting and ventilation of buildings and structures; requirements concerning means of egress from buildings and structures; requirements concerning means of ingress in buildings and structures; rules governing construction and precautions to be taken during construction;

rules as to permissible materials, loads, and stresses; rules governing chimneys, heating appliances, elevators, and other facilities connected with the buildings and structures; rules governing plumbing, heating, air conditioning for the purpose of comfort cooling by the lowering of temperature, and electrical systems; and such other reasonable rules pertaining to the construction of buildings and structures and the installation of particular facilities therein as may be found reasonably necessary for the protection of the occupants of the building or structure, its neighbors, and members of the public at large.

In addition, the Code may regulate activities and conditions in buildings, structures, and premises that pose dangers of fire, explosion, or related hazards. Such fire prevention code provisions shall be considered the minimum standards necessary to preserve and protect public health and safety, subject to approval by the Council of more stringent provisions proposed by a municipality or county as provided in G.S. 143-138(e). These provisions may include regulations requiring the installation of either battery-operated or electrical smoke detectors in every dwelling unit used as rental property, regardless of the date of construction of the rental property. For dwelling units used as rental property constructed prior to 1975, smoke detectors shall have an Underwriters' Laboratories, Inc., listing or other equivalent national testing laboratory approval, and shall be installed in accordance with either the standard of the National Fire Protection Association or the minimum protection designated in the manufacturer's instructions, which the property owner shall retain or provide as proof of compliance.

The Code may contain provisions regulating every type of building or structure, wherever it might be situated in the State.

Provided further, that nothing in this Article shall be construed to make any building rules applicable to farm buildings located outside the building-rules jurisdiction of any municipality.

Provided further, that no building permit shall be required under the Code or any local variance thereof approved under subsection (e) for any construction, installation, repair, replacement, or alteration costing five thousand dollars (\$5,000) or less in any single family residence or farm building unless the work involves: the addition, repair, or replacement of load bearing structures; the addition (excluding replacement of same size and capacity) or change in the design of plumbing; the addition, replacement or change in the design of heating, air conditioning, or electrical wiring, devices, appliances, or equipment, the use of materials not permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding replacement of like grade of fire resistance) of roofing.

Provided further, that no building permit shall be required under such Code from any State agency for the construction of any building or structure, the total cost of which is less than twenty thousand dollars (\$20,000), except public or institutional buildings.

For the information of users thereof, the Code shall include as appendices

- (1) Any rules governing boilers adopted by the Board of Boiler and Pressure Vessels Rules,

- (2) Any rules relating to the safe operation of elevators adopted by the Commissioner of Labor, and
- (3) Any rules relating to sanitation adopted by the Commission for Health Services ~~or the Department of Environment, Health, and Natural Resources~~ which the Building Code Council believes pertinent.

In addition, the Code may include references to such other rules of special types, such as those of the Medical Care Commission and the Department of Public Instruction as may be useful to persons using the Code. No rule issued by any agency other than the Building Code Council shall be construed as a part of the Code, nor supersede that Code, it being intended that they be presented with the Code for information only.

Nothing in this Article shall extend to or be construed as being applicable to the regulation of the design, construction, location, installation, or operation of (1) equipment for storing, handling, transporting, and utilizing liquefied petroleum gases for fuel purposes or anhydrous ammonia or other liquid fertilizers, except for liquefied petroleum gas from the outlet of the first stage pressure regulator to and including each liquefied petroleum gas utilization device within a building or structure covered by the Code, or (2) equipment or facilities, other than buildings, of a public utility, as defined in G.S. 62-3, or an electric or telephone membership corporation, including without limitation poles, towers, and other structures supporting electric or communication lines.

In addition, the Code may contain rules concerning minimum efficiency requirements for replacement water heaters, which shall consider reasonable availability from manufacturers to meet installation space requirements."

Section 11A.94. G.S. 143-138(g) reads as rewritten:

"(g) Publication and Distribution of Code. -- The Building Code Council shall cause to be printed, after adoption by the Council, the North Carolina State Building Code and each amendment thereto. It shall, at the State's expense, distribute copies of the Code and each amendment to State and local governmental officials, departments, agencies, and educational institutions, as is set out in the table below. (Those marked by an asterisk will receive copies only on written request to the Council.)

OFFICIAL OR AGENCY	NUMBER OF COPIES
State Departments and Officials	
Governor	1
Lieutenant Governor	1
Auditor	1
Treasurer	1
Secretary of State	1
Superintendent of Public Instruction	1
Attorney General (Library)	1
Commissioner of Agriculture	1
Commissioner of Labor	1
Commissioner of Insurance	1
Department of Environment, Health, Environment and Natural Resources	1
Department of Human Resources <u>Health and Human</u>	

Services	1
Board of Transportation.....	1
Utilities Commission	1
Department of Administration.....	1
Clerk of the Supreme Court.....	1
Clerk of the Court of Appeals.....	1
Clerk of the Superior Court	1 each
Department of Cultural Resources [State Library]	5
Supreme Court Library	2
Legislative Library	1
Schools	
All state-supported colleges and universities in the State of North Carolina.....*	1 each
Local Officials	
Clerks of the Superior Courts.....	1 each
Chief Building Inspector of each incorporated municipality or county	1

In addition, the Building Code Council shall make additional copies available at such price as it shall deem reasonable to members of the general public."

Section 11A.95. G.S. 143-280 reads as rewritten:

"§ 143-280. *Membership.*

The Commission shall consist of ~~one member~~ three members from the ~~North Carolina Department of Human Resources, one member from the Department of Human Resources, one member from the Department of Human Resources, Health and Human Services,~~ one member from the boards of county commissioners, one county superintendent of social services, one local health director, and one clerk of the superior court."

Section 11A.96. G.S. 143-300.8 reads as rewritten:

"§ 143-300.8. *Defense of local sanitarians.*

Any local health department sanitarian enforcing rules of the Commission for Health Services under the supervision of the Department of ~~Environment, Health, and Natural Resources~~ Environment and Natural Resources pursuant to G.S. 130A-4(b) shall be defended by the Attorney General, subject to the provisions of G.S. 143-300.4, and shall be protected from liability in accordance with the provisions of this Article in any civil or criminal action or proceeding brought against the sanitarian in his official or individual capacity, or both, on account of an act done or omission made in the scope and course of enforcing the rules of the Commission for Health Services. The Department of ~~Environment, Health, and Natural Resources~~ Environment and Natural Resources shall pay any judgment against the sanitarian, or any settlement made on his behalf, subject to the provisions of G.S. 143-300.6."

Section 11A.97. G.S. 143-436, as amended by S.L. 1997-261, reads as rewritten:

"§ 143-436. *North Carolina Pesticide Board; creation and organization.*

(a) There is hereby established the North Carolina Pesticide Board which, together with the Commissioner of Agriculture, shall be responsible for carrying out the provisions of this Article.

(b) The Pesticide Board shall consist of seven members, to be appointed by the Governor, as follows:

- (1) One member each representing the North Carolina Department of Agriculture and ~~two members representing the North Carolina Department of Environment, Health, and Natural Resources, one of whom shall be Agriculture and Consumer Services, the State Health Director or his designee and one of whom shall represent designee, and one member from an environmental protection agency, agency in the Department of Environment and Natural Resources.~~ The persons so selected may be either members of a policy board or departmental officials or employees.
- (2) A representative of the agricultural chemical industry.
- (3) A person directly engaged in agricultural production.
- (4) Two at-large members, from fields of endeavor other than those enumerated in subdivisions (2) and (3) of this subsection, one of whom shall be a nongovernmental conservationist.

(c) The members of the Pesticide Board shall serve staggered four-year terms. Of the persons originally appointed, the members representing State agencies shall serve two-year terms, and the four at-large members shall serve four-year terms. All members shall hold their offices until their successors are appointed and qualified. Any vacancy occurring in the membership of the Board prior to the expiration of the term shall be filled by appointment by the Governor for the remainder of the unexpired term. The Governor may at any time remove any member from the Board for gross inefficiency, neglect of duty, malfeasance, misfeasance, or nonfeasance in office. Each appointment to fill a vacancy in the membership of the Board shall be of a person having the same credentials as his predecessor.

(d) The Board shall select its chairman chair from its own membership, to serve for a term of two years. The chairman chair shall have a full vote. Any vacancy occurring in the chairmanship chair's position shall be filled by the Board for the remainder of the term. The Board may select such other officers as it deems necessary.

(e) Any action of the Board shall require at least four concurring votes.

(f) The members of the Board who are not officers or employees of the State shall receive for their services the per diem and compensation prescribed in G.S. 138-5."

Section 11A.98. G.S. 143-573 reads as rewritten:

"§ 143-573. Task Force -- creation; membership; vacancies.

(a) There is created the North Carolina Child Fatality Task Force within the Department of Environment, Health, and Natural Resources Health and Human Services for budgetary purposes only.

(b) The Task Force shall be composed of ~~36~~ 35 members, ~~12~~ 11 of whom shall be ex officio members, four of whom shall be appointed by the Governor, ten of whom shall be appointed by the Speaker of the House of Representatives, and ten of whom shall be appointed by the President Pro

Tempore of the Senate. The ex officio members other than the Chief Medical Examiner shall be nonvoting members and may designate representatives from their particular departments, divisions, or offices to represent them on the Task Force. The members shall be as follows:

- (1) The Chief Medical Examiner;
- (2) The Attorney General;
- (3) The Director of the Division of Social Services;
- (4) The Director of the State Bureau of Investigation;
- (5) The Director of the Division of Maternal and Child Health of the Department of ~~Environment, Health, and Natural Resources~~; Health and Human Services;
- (6) The Director of the Governor's Youth Advocacy and Involvement Office;
- (7) The Superintendent of Public Instruction;
- (8) The Chairman of the State Board of Education;
- (9) The Director of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services;
- (10) The Secretary of the Department of ~~Human Resources~~; Health and Human Services;
- (11) ~~The Secretary of the Department of Environment, Health, and Natural Resources~~;
- (11.1) The Director of the Administrative Office of the Courts;
- (12) A director of a county department of social services appointed by the Governor upon recommendation of the President of the North Carolina Association of County Directors of Social Services;
- (13) A representative from a Sudden Infant Death Syndrome counseling and education program appointed by the Governor upon recommendation of the Director of the Division of Maternal and Child Health of the Department of ~~Environment, Health, and Natural Resources~~; Health and Human Services;
- (14) A representative from the North Carolina Child Advocacy Institute appointed by the Governor upon recommendation of the President of the Institute;
- (14.1) A director of a local department of health, appointed by the Governor upon the recommendation of the President of the North Carolina Association of Local Health Directors;
- (15) A representative from a private group, other than the North Carolina Child Advocacy Institute, that advocates for children, appointed by the Speaker of the House of Representatives upon recommendation of private child advocacy organizations;
- (16) A pediatrician, licensed to practice medicine in North Carolina, appointed by the Speaker of the House of Representatives upon recommendation of the North Carolina Pediatric Society;
- (17) A representative from the North Carolina League of Municipalities appointed by the Speaker of the House of Representatives upon recommendation of the League;

- (18) Two public members appointed by the Speaker of the House of Representatives;
- (19) A county or municipal law enforcement officer appointed by the President Pro Tempore of the Senate upon recommendation of organizations that represent local law enforcement officers;
- (20) A district attorney appointed by the President Pro Tempore of the Senate upon recommendation of the President of the North Carolina Conference of District Attorneys;
- (21) A representative from the North Carolina Association of County Commissioners appointed by the President Pro Tempore of the Senate upon recommendation of the Association;
- (22) Two public members appointed by the President Pro Tempore of the Senate; and
- (23) Five members of the Senate appointed by the President Pro Tempore of the Senate and five members of the House of Representatives appointed by the Speaker of the House of Representatives.

(c) All members of the Task Force are voting members. Vacancies in the appointed membership shall be filled by the appointing officer who made the initial appointment. The Speaker of the House of Representatives shall call the first meeting no later than October 1, 1991. At the first meeting the members shall elect a chair who shall preside for the duration of the Task Force."

Section 11A.99. G.S. 143-575 reads as rewritten:

"§ 143-575. State Team -- creation; membership; vacancies.

(a) There is created the North Carolina Child Fatality Prevention Team within the Department of ~~Environment, Health, and Natural Resources~~ Health and Human Services for budgetary purposes only.

(b) The State Team shall be composed of eleven members of whom nine members are ex officio and two are appointed. The ex officio members other than the Chief Medical Examiner may designate a representative from their departments, divisions, or offices to represent them on the State Team.

- (1) The Chief Medical Examiner, who shall chair the State Team;
- (2) The Attorney General;
- (3) The Director of the Division of Social Services, Department of ~~Human Resources; Health and Human Services;~~
- (4) The Director of the State Bureau of Investigation;
- (5) The Director of the Division of Maternal and Child Health of the Department of ~~Environment, Health, and Natural Resources;~~ Health and Human Services;
- (6) The Superintendent of Public Instruction;
- (7) The Director of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, Department of ~~Human Resources; Health and Human Services;~~
- (7.1) The Director of the Administrative Office of the Courts;
- (8) The pediatrician appointed pursuant to G.S. 143-573(b)(16) to the Task Force;
- (9) A public member, appointed by the Governor; and

(10) The Team Coordinator.

(c) All members of the State Team are voting members. Vacancies in the appointed membership shall be filled by the appointing officer who made the initial appointment."

Section 11A.100. G.S. 143-576.2(b) reads as rewritten:

"(b) Each Local Team shall consist of the following persons:

- (1) The director of the county department of social services, and a member of the director's staff;
- (2) A local law enforcement officer, appointed by the board of county commissioners;
- (3) An attorney from the district attorney's office, appointed by the district attorney;
- (4) The executive director of the local community action agency, as defined by the ~~Division of Economic Opportunity~~, Department of Human Resources, Health and Human Services, or the executive director's designee;
- (5) The superintendent of each local school administrative unit located in the county, or the superintendent's designee;
- (6) A member of the county board of social services, appointed by the chair of that board;
- (7) A local mental health professional, appointed by the director of the area authority established under Chapter 122C of the General Statutes;
- (8) The local guardian ad litem coordinator, or the coordinator's designee;
- (9) The director of the local department of public health; and
- (10) A local health care provider, appointed by the local board of health.

In addition, a Local Team that reviews the records of additional child fatalities shall include the following four additional members:

- (1) An emergency medical services provider or firefighter, appointed by the board of county commissioners;
- (2) A district court judge, appointed by the chief district judge in that district;
- (3) A county medical examiner, appointed by the Chief Medical Examiner;
- (4) A representative of a local day care facility or Head Start program, appointed by the director of the county department of social services; and
- (5) A parent of a child who died before reaching the child's eighteenth birthday, to be appointed by the board of county commissioners.

The Team Coordinator shall serve as an ex officio member of each Local Team that reviews the records of additional child fatalities. The board of county commissioners may appoint a maximum of five additional members to represent county agencies or the community at large to serve on any Local Team. Vacancies on a Local Team shall be filled by the original appointing authority."

Section 11A.101. G.S. 143B-139.1 reads as rewritten:

"§ 143B-139.1. Department of Human Resources Secretary of Health and Human Services —~~head~~— to establish adopt rules and regulations applicable to local health and human resource services agencies.

The Secretary of the Department of Human Resources Health and Human Services is authorized to establish may adopt rules and regulations applicable to local health and human resource services agencies for the purpose of program evaluation, fiscal audits, and collection of third-party payments."

Section 11A.102. G.S. 143B-139.2 reads as rewritten:

"§ 143B-139.2. Department of Human Resources Secretary of Health and Human Services —~~head~~— requests for grants-in-aid from non-State agencies.

It is the intent of this General Assembly that non-State health and human resources services agencies submit their appropriation requests for grants-in-aid through the Secretary of the Department of Human Resources Health and Human Services for recommendations to the Governor and the Advisory Budget Commission and the General Assembly, and that agencies receiving these grants, at the request of the Secretary of the Department of Human Resources, Health and Human Services, provide a postaudit of their operations that has been done by a certified public accountant."

Section 11A.103. G.S. 143B-150.7 reads as rewritten:

"§ 143B-150.7. Advisory Committee on Family-Centered Services; establishment, membership, compensation.

(a) There is established the Advisory Committee on Family-Centered Services within the Department of Human Resources, Health and Human Services.

(b) The Committee shall have 24 members appointed for staggered four-year terms and until their successors are appointed and qualify. The Governor shall have the power to remove any member of the Committee from office in accordance with the provisions of G.S. 143B-13. Members may succeed themselves for one term and may be appointed again after being off the Committee for one term. Six of the members shall be legislators appointed by the General Assembly, three of whom shall be recommended by the Speaker of the House of Representatives, and three of whom shall be recommended by the President Pro Tempore of the Senate. Two of the members shall be appointed by the General Assembly from the public at large, one of whom shall be recommended by the Speaker of the House of Representatives, and one of whom shall be recommended by the President Pro Tempore of the Senate. The remainder of the members shall be appointed by the Governor as follows:

- (1) Four Five members representing the Department of Human Resources, Health and Human Services, one of whom shall be the Assistant Secretary for Children and Family, one of whom shall represent the Division of Social Services, one of whom shall represent the Division of Youth Services, and one of whom shall represent the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services; Services, and one of whom shall represent the Division of Maternal and Child Health;
- (2) Three Two members, one from each of the following: the Administrative Office of the Courts, Courts and the Department of Public Instruction, and the Division of Maternal and Child Health

~~of the Department of Environment, Health, and Natural Resources; Instruction;~~

- (3) One member who represents the Juvenile Justice Planning Committee of the Governor's Crime Commission, and one member appointed at large;
- (4) One member who is a district court judge certified by the Administrative Office of the Courts to hear juvenile cases;
- (5) One member representing the schools of social work of The University of North Carolina;
- (6) Two members, one of whom is a provider of family preservation services, and one of whom is a consumer of family preservation services; and
- (7) Three members who represent county-level associations; one of whom represents the Association of County Commissioners, one of whom represents the Association of Directors of Social Services, and one of whom represents the North Carolina Council of Mental Health, Developmental Disabilities, and Substance Abuse Services.

The Secretary of the Department of ~~Human Resources~~ Health and Human Services shall serve as the Chairman Chair of the Committee. The Secretary shall appoint the cochair of the Committee for a two-year term on a rotating basis from among the Committee members who represent the Division of Youth Services, the Division of Social Services, and the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.

(c) To the extent that funds are made available, members of the Committee shall receive per diem and necessary travel and subsistence expenses in accordance with G.S. 138-5.

(d) A majority of the Committee shall constitute a quorum for the transaction of its business.

(e) The Committee may use funds allocated to it to employ an administrative staff person to assist the Committee in carrying out its duties. Clerical and other support staff services needed by the Committee shall be provided by the Secretary of ~~Human Resources~~ Health and Human Services."

Section 11A.104. G.S. 143B-150.9 reads as rewritten:

"§ 143B-150.9. *State agency cooperation with Advisory Committee on Family-Centered Services.*

All appropriate State agencies, including the Department of ~~Human Resources, the Department of Environment, Health, and Natural Resources,~~ Health and Human Services, the Department of Public Instruction, the Administrative Office of the Courts, the Governor's Crime Commission, and other public family preservation service providers shall cooperate with the Advisory Committee on Family-Centered Services in carrying out its responsibilities."

Section 11A.105. G.S. 143B-168.12(a) reads as rewritten:

"(a) In order to receive State funds, the following conditions shall be met:

- (1) The North Carolina Partnership shall have a Board of Directors consisting of the following ~~39~~ 38 members:

- a. The Secretary of ~~Human Resources, Health and Human Services~~, ex officio;
 - b. ~~The Secretary of Environment, Health, and Natural Resources~~, ex officio;
 - c. The Superintendent of Public Instruction, ex officio;
 - d. The President of the Department of Community Colleges, ex officio;
 - e. One resident from each of the 1st, 3rd, 5th, 7th, 9th, and 11th Congressional Districts, appointed by the President Pro Tempore of the Senate;
 - f. One resident from each of the 2nd, 4th, 6th, 8th, 10th, and 12th Congressional Districts, appointed by the Speaker of the House of Representatives;
 - g. Seventeen members, of whom four shall be members of the party other than the Governor's party, appointed by the Governor;
 - h. The President Pro Tempore of the Senate, or a designee;
 - i. The Speaker of the House of Representatives, or a designee;
 - j. The Majority Leader of the Senate, or a designee;
 - k. The Majority Leader of the House of Representatives, or a designee;
 - l. The Minority Leader of the Senate, or a designee; and
 - m. The Minority Leader of the House of Representatives, or a designee.
- (2) The North Carolina Partnership shall agree to adopt procedures for its operations that are comparable to those of Article 33C of Chapter 143 of the General Statutes, the Open Meetings Law, and Chapter 132 of the General Statutes, the Public Records Law, and provide for enforcement by the Department.
 - (3) The North Carolina Partnership shall oversee the development and implementation of the local demonstration projects as they are selected.
 - (4) The North Carolina Partnership shall develop and implement a comprehensive standard fiscal accountability plan to ensure the fiscal integrity and accountability of State funds appropriated to it and to the local partnerships. The standard fiscal accountability plan shall, at a minimum, include a uniform, standardized system of accounting, internal controls, payroll, fidelity bonding, chart of accounts, and contract management and monitoring. The North Carolina Partnership may contract with outside firms to develop and implement the standard fiscal accountability plan. All local partnerships shall be required to participate in the standard fiscal accountability plan developed and adopted by the North Carolina Partnership pursuant to this subdivision.
 - (5) The North Carolina Partnership shall develop and implement a centralized accounting and contract management system which incorporates features of the required standard fiscal accountability plan described in subdivision (4) of subsection (a) of this section. The following local partnerships shall be required to participate in

the centralized accountability system developed by the North Carolina Partnership pursuant to this subdivision:

- a. Local partnerships which have significant deficiencies in their accounting systems, internal controls, and contract management systems, as determined by the North Carolina Partnership based on the annual financial audits of the local partnerships conducted by the Office of the State Auditor; and
- b. Local partnerships which are in the first two years of operation following their selection. At the end of this two-year period, local partnerships shall continue to participate in the centralized accounting and contract management system. With the approval of the North Carolina Partnership, local partnerships may perform accounting and contract management functions at the local level using the standardized and uniform accounting system, internal controls, and contract management systems developed by the North Carolina Partnership.

Local partnerships which otherwise would not be required to participate in the centralized accounting and contract management system pursuant to this subdivision may voluntarily choose to participate in the system. Participation or nonparticipation shall be for a minimum of two years, unless, in the event of nonparticipation, the North Carolina Partnership determines that any partnership's annual financial audit reveals serious deficiencies in accounting or contract management.

- (6) The North Carolina Partnership shall develop a formula for allocating direct services funds appropriated for this purpose to local partnerships.
- (7) The North Carolina Partnership may adjust its allocations on the basis of local partnerships' performance assessments. In determining whether to adjust its allocations to local partnerships, the North Carolina Partnership shall consider whether the local partnerships are meeting the outcome goals and objectives of the North Carolina Partnership and the goals and objectives set forth by the local partnerships in their approved annual program plans.

The North Carolina Partnership may use additional factors to determine whether to adjust the local partnerships' allocations. These additional factors shall be developed with input from the local partnerships and shall be communicated to the local partnerships when the additional factors are selected. These additional factors may include board involvement, family and community outreach, collaboration among public and private service agencies, and family involvement.

On the basis of performance assessments, local partnerships annually shall be rated 'superior', 'satisfactory', or 'needs improvement'. Local partnerships rated 'superior' shall receive, to the extent that funds are available, a ten percent (10%) increase in their annual funding allocation. Local partnerships rated 'satisfactory' shall receive their annual funding allocation. Local

partnerships rated 'needs improvement' shall receive ninety percent (90%) of their annual funding allocation.

The North Carolina Partnership may contract with outside firms to conduct the performance assessments of local partnerships.

- (8) The North Carolina Partnership shall establish a local partnership advisory committee comprised of 15 members. Eight of the members shall be chairs of local partnerships' board of directors, and seven shall be staff of local partnerships. Members shall be chosen by the Chair of the North Carolina Partnership from a pool of candidates nominated by their respective boards of directors. The local partnership advisory committee shall serve in an advisory capacity to the North Carolina Partnership and shall establish a schedule of regular meetings. Members shall serve two-year terms and may not serve more than two consecutive terms. Members shall be chosen from local partnerships on a rotating basis. The advisory committee shall annually elect a chair from among its members.
- (9) The North Carolina Partnership shall report (i) quarterly to the Joint Legislative Commission on Governmental Operations and (ii) to the General Assembly and the Governor on the ongoing progress of all the local partnerships' work, including all details of the use to which the allocations were put, and on the continuing plans of the North Carolina Partnership and of the Department, together with legislative proposals, including proposals to implement the program statewide."

Section 11A.106. G.S. 143B-179.5 reads as rewritten:

"§ 143B-179.5. Interagency Coordinating Council for Children from Birth to Five with Disabilities and Their Families; establishment, composition, organization; duties, compensation, reporting.

(a) There is established an Interagency Coordinating Council for Children from Birth to Five with Disabilities and Their Families in the Department of ~~Human Resources.~~ Health and Human Services.

(b) The Interagency Coordinating Council shall have 26 members, appointed by the Governor. Effective July 1, 1994, the Governor shall designate 13 appointees to serve for two years and 13 appointees to serve for one year. Thereafter, the terms of all Council members shall be two years. The Governor shall have the power to remove any member of the Council from office in accordance with the provisions of G.S. 143B-16. Any appointment to fill a vacancy on the Council created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term. Members may be appointed to succeed themselves for one term and may be appointed again, after being off the Council for one term.

The composition of the Council and the designation of the Council's chair shall be as specified in the 'Individuals with Disabilities Education Act' (IDEA), P.L. 102-119, the federal early intervention legislation, except that two members shall be members of the Senate, appointed from recommendations of the President Pro Tempore of the Senate and two

members shall be members of the House of Representatives, appointed from recommendations of the Speaker of the House of Representatives.

(c) The chair may establish those standing and ad hoc committees and task forces as may be necessary to carry out the functions of the Council and appoint Council members or other individuals to serve on these committees and task forces. The Council shall meet at least quarterly. A majority of the Council shall constitute a quorum for the transaction of business.

(d) The Council shall advise the ~~Departments of Human Resources, and Environment, Health, and Natural Resources,~~ Department of Health and Human Services and other appropriate agencies in carrying out their early intervention services, and the Department of Public Instruction, and other appropriate agencies, in their activities related to the provision of special education services for preschoolers. The Council shall specifically address in its studies and evaluations that it considers necessary to its advising:

- (1) The identification of sources of fiscal and other support for the early intervention system;
- (2) The development of policies related to the early intervention services;
- (3) The preparation of applications for available federal funds;
- (4) The resolution of interagency disputes; and
- (5) The promotion of interagency agreements.

(e) Members of the Council and parents on ad hoc committees and task forces of the Council shall receive travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(f) The Council shall prepare and submit an annual report to the Governor and to the General Assembly on the status of the early intervention system for eligible infants and toddlers and on the status of special education services for preschoolers.

All clerical and other services required by the Council shall be supplied by the Secretary of ~~Human Resources Health and Human Services~~ and the Superintendent of Public Instruction, as specified by the interagency agreement authorized by G.S. 122C-112(a)(13)."

Section 11A.107. G.S. 143B-179.6 reads as rewritten:

"§ 143B-179.6. *Interagency Coordinating Council for Handicapped Children from Birth to Five Years of Age; agency cooperation.*

All appropriate agencies, including the Department of ~~Human Resources, the Department of Environment, Health, and Natural Resources,~~ Health and Human Services and the Department of Public Instruction, and other public and private service providers shall cooperate with the Council in carrying out its mandate."

Section 11A.108. G.S. 143B-181 reads as rewritten:

"§ 143B-181. *Governor's Advisory Council on Aging — members; selection; quorum; compensation.*

The Governor's Advisory Council on Aging of the Department of ~~Human Resources Health and Human Services~~ shall consist of 33 members, 29 members to be appointed by the Governor, two members to be appointed by the President Pro Tempore of the Senate, and two members to be appointed by the Speaker of the House of Representatives. The composition of the Council shall be as follows: one representative of the Department of

Administration; one representative of the Department of Cultural Resources; one representative of the Employment Security Commission; one representative of the Teachers' and State Employees' Retirement System; one representative of the Commissioner of Labor; one representative of the Department of Public Instruction; one representative of the Department of ~~Environment, Health, Environment~~ and Natural Resources; one representative of the Department of Insurance; one representative of the Department of Crime Control and Public Safety; one representative of the Department of Community Colleges; one representative of the School of Public Health of The University of North Carolina; one representative of the School of Social Work of The University of North Carolina; one representative of the Agricultural Extension Service of North Carolina State University; one representative of the collective body of the Medical Society of North Carolina; and 19 members at large. The at large members shall be citizens who are knowledgeable about services supported through the Older Americans Act of 1965, as amended, and shall include persons with greatest economic or social need, minority older persons, and participants in programs under the Older Americans Act of 1965, as amended. The Governor shall appoint 15 members at large who meet these qualifications and are 60 years of age or older. The four remaining members at large, two of whom shall be appointed by the President Pro Tempore of the Senate and two of whom shall be appointed by the Speaker of the House of Representatives, shall be broadly representative of the major private agencies and organizations in the State who are experienced in or have demonstrated particular interest in the special concerns of older persons. At least one of each of the at-large appointments of the President Pro Tempore of the Senate and the Speaker of the House of Representatives shall be persons 60 years of age or older. The Council shall meet at least quarterly.

Members at large shall be appointed for four-year terms and until their successors are appointed and qualify. Ad interim appointments shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Council from office in accordance with the provisions of G.S. 143B-16 of the Executive Organization Act of 1973.

The Governor shall designate one member of the Council as ~~chairman~~ chair to serve in such capacity at his pleasure.

Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Council shall constitute a quorum for the transaction of business.

All clerical and other services required by the Council shall be supplied by the Secretary of ~~Human Resources, Health and Human Services.~~

Section 11A.108A. G.S. 143B-279.7 reads as rewritten:

"§ 143B-279.7. *Fish kill response protocols; report.*

(a) The Department of ~~Environment, Health, Environment~~ and Natural Resources shall coordinate an intradepartmental effort to develop scientific protocols to respond to significant fish kill events utilizing staff from the Division of Environmental Management, Division of Marine Fisheries, ~~Division of Epidemiology, Department of Health and Human Services,~~

Wildlife Resources Commission, the scientific community, and other agencies, as necessary. In developing these protocols, the Department of Environment and Natural Resources shall address the unpredictable nature of fish kills caused by both natural and man-made factors. The protocols shall contain written procedures to respond to significant fish kill events including:

- (1) Developing a plan of action to evaluate the impact of fish kills on public health and the environment.
- (2) Responding to fish kills within 24 hours.
- (3) Investigating and collecting data relating to fish kill events.
- (4) Summarizing and distributing fish kill information to participating agencies, scientists and other interested parties.

(b) The Secretary of the Department of Environment and Natural Resources shall take all necessary and appropriate steps to effectively carry out the purposes of this Part including:

- (1) Providing adequate training for fish kill investigators.
- (2) Taking immediate action to protect public health and the environment.
- (3) Cooperating with agencies, scientists, and other interested parties, to help determine the cause of the fish kill.

(c) The Department of Environment and Natural Resources shall report annually to the Environmental Review Commission and the Senate Agriculture and Environment Committee no later than December 1 of each year. This report shall include a summary of all fish kill activity within the last year, an overview of any trend analyses, a discussion of any new or modified methodologies or reporting protocols, and any other relevant information."

Section 11A.109. G.S. 143B-426.22(a) reads as rewritten:

"§ 143B-426.22. *Governor's Management Council.*

(a) Creation; Membership. -- The Governor's Management Council is created in the Department of Administration. The Council shall contain the following members: The Secretary of Administration, who shall serve as chairman, a senior staff officer responsible for productivity and management programs from the Departments of Commerce, Revenue, Environment, Health, Environment and Natural Resources, Transportation, Crime Control and Public Safety, Cultural Resources, Correction, Human Resources, Health and Human Services, and Administration; and an equivalent officer from the Offices of State Personnel, State Budget and Management, and the Governor's Program for Executive and Organizational Development. The following persons may also serve on the Council if the entity represented chooses to participate: a senior staff officer responsible for productivity and management programs from any State department not previously specified in this section, and a representative from The University of North Carolina."

Section 11A.110. G.S. 150B-1(e), as amended by S.L. 1997-35, reads as rewritten:

"(e) Exemptions From Contested Case Provisions. -- The contested case provisions of this Chapter apply to all agencies and all proceedings not expressly exempted from the Chapter. The contested case provisions of this Chapter do not apply to the following:

- (1) The Department of ~~Human Resources Health and Human Services~~ and the Department of ~~Environment, Health, Environment~~ and Natural Resources in complying with the procedural safeguards mandated by Section 11A.680 of Part H of Public Law 99-457 as amended (Education of the Handicapped Act Amendments of 1986).
- (2) Repealed by Session Laws 1993, c. 501, s. 29.
- (3) The North Carolina Low-Level Radioactive Waste Management Authority in administering the provisions of G.S. 104G-9, 104G-10, and 104G-11.
- (4) The North Carolina Hazardous Waste Management Commission in administering the provisions of G.S. 130B-11, 130B-13, and 130B-14.
- (5) Hearings required pursuant to the Rehabilitation Act of 1973, (Public Law 93-122), as amended and federal regulations promulgated thereunder. G.S. 150B-51(a) is considered a contested case hearing provision that does not apply to these hearings.
- (6) The Department of Revenue.
- (7) The Department of Correction.
- (8) The Department of Transportation, except as provided in G.S. 136-29.
- (9) The Occupational Safety and Health Review Board.
- (10) The North Carolina Global TransPark Authority with respect to the acquisition, construction, operation, or use, including fees or charges, of any portion of a cargo airport complex.
- (11) Hearings that are provided by the Department of ~~Human Resources Health and Human Services~~ regarding the eligibility and provision of services for eligible assaultive and violent children, as defined in G.S. 122C-3(13a), shall be conducted pursuant to the provisions outlined in G.S. 122C, Article 4, Part 7."

Section 11A.111. G.S. 148-10 reads as rewritten:

"§ 148-10. ~~Department of Environment, Health, and Natural Resources~~
Environment and Natural Resources to supervise sanitary and health conditions of prisoners.

The Department of ~~Environment, Health, and Natural Resources~~
Environment and Natural Resources shall have general supervision over the sanitary and health conditions of the central prison, over the prison camps, or other places of confinement of prisoners under the jurisdiction of the State Department of Correction, and shall make periodic examinations of the same and report to the State Department of Correction the conditions found there with respect to the sanitary and hygienic care of such prisoners."

Section 11A.112. G.S. 153A-225(b) reads as rewritten:

"(b) If a prisoner in a local confinement facility dies, the medical examiner and the coroner shall be notified immediately. Within five days after the day of the death, the administrator of the facility shall make a written report to the local or district health director and to the Secretary of ~~Environment, Health, and Natural Resources~~. Health and Human Services.

The report shall be made on forms developed and distributed by the Department of ~~Environment, Health, and Natural Resources~~. Health and Human Services."

Section 11A.113. G.S. 153A-226(b) reads as rewritten:

"(b) The Commission for Health Services shall prepare a score sheet to be used by local health departments in inspecting local confinement facilities. The local health departments shall inspect local confinement facilities as often as may be required by the Commission for Health Services. If an inspector of the Department finds conditions that reflect hazards or deficiencies in the sanitation or food service of a local confinement facility, he shall immediately notify the local health department. The health department shall promptly inspect the facility. After making its inspection, the local health department shall forward a copy of its report to the Department of ~~Human Resources~~ Health and Human Services and to the unit operating the facility, on forms prepared by the Department of ~~Environment, Health, and Natural Resources~~. Environment and Natural Resources. The report shall indicate whether the facility and its kitchen or other place for preparing food is approved or disapproved for public health purposes. If the facility is disapproved, the situation shall be rectified according to the procedures of G.S. 153A-223."

Section 11A.114. G.S. 159I-28 reads as rewritten:

"§ 159I-28. *Rules.*

(a) The Office of State Budget and Management and the Commission for Health Services of the Department of ~~Environment, Health, and Natural Resources~~ may adopt, modify and repeal rules establishing the procedures to be followed in the administration of this Chapter and regulations interpreting and applying the provisions of this Chapter, as provided in the Administrative Procedure Act. Uniform rules may be jointly adopted where feasible and desirable, and no rule jointly adopted may be modified or revoked except upon the concurrence of both agencies involved.

(b) A copy of the rules adopted to implement the provisions of this Chapter shall be furnished free of charge by the Division and the Office of State Budget and Management to any unit of local government."

Section 11A.116. G.S. 162A-30 reads as rewritten:

"§ 162A-30. *Construction of Article.*

This Article shall be construed as providing supplemental authority in addition to the powers of the North Carolina Utilities Commission under Chapter 62 of the North Carolina General Statutes, the North Carolina Environmental Management Commission under Articles 21 and 38 of Chapter 143 of the North Carolina General Statutes, and the North Carolina Department of ~~Human Resources~~ Environment and Natural Resources under General Statutes ~~Chapter 130~~, Chapter 130A, and any other provisions of law concerning local and regional sewage disposal."

Section 11A.117. G.S. 163-82.14(b) reads as rewritten:

"(b) Death. -- The Department of ~~Environment, Health, and Natural Resources~~, Health and Human Services, on or before the fifteenth day of March, June, September, and December, shall furnish free of charge to each county board of elections a certified list of the names of deceased persons who were residents of that county. The Department of ~~Environment,~~

~~Health, and Natural Resources~~ Health and Human Services shall base each list upon information supplied by death certifications it received during the preceding quarter. Upon the receipt of the certified list, the county board of elections shall remove from its voter registration records any person the list shows to be dead. The county board need not send any notice to the address of the person so removed."

Section 11A.118. (a) The phrase "Human Resources" is deleted and replaced by the phrase "Health and Human Services" wherever it occurs in each of the following sections of the General Statutes:

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| G.S. 7A-29 | Appeals of right from certain administrative agencies. |
| G.S. 7A-289.2 | Definitions. |
| G.S. 7A-289.13 | Legislative intent. |
| G.S. 7A-289.14 | Duties of Secretary of Human Resources. |
| G.S. 7A-289.15 | Purchase of care or services from programs meeting State standards. |
| G.S. 7A-289.16 | County assessment of youth needs. |
| G.S. 7A-289.32 | Grounds for terminating parental rights. |
| G.S. 7A-450.4 | Exemptions. |
| G.S. 7A-517 | Definitions. |
| G.S. 7A-548 | Duty of Director to report evidence of abuse, neglect; investigation by local law enforcement; notification of Department of Human Resources and State Bureau of Investigation. |
| G.S. 7A-552 | Central registry. |
| G.S. 7A-571 | Taking a juvenile into temporary custody. |
| G.S. 7A-576 | Place of secure or nonsecure custody. |
| G.S. 7A-652 | Commitment of delinquent juvenile to Division of Youth Services. |
| G.S. 7A-653 | Transfer authority of Governor. |
| G.S. 7A-676 | Expunction of records of juveniles alleged or adjudicated delinquent and undisciplined. |
| G.S. 8B-1 | Definitions; right to interpreter; determination of competence. |
| G.S. 8B-6 | List of interpreters; coordination of interpreter services. |
| G.S. 8B-8 | Compensation. |
| G.S. 8B-10 | North Carolina Interpreter Classification System application and assessment fee. |
| G.S. 14-45.1 | When abortion not unlawful. |
| G.S. 14-309.7 | Licensing procedure. |
| G.S. 14-309.11 | Accounting and use of proceeds. |
| G.S. 14-313 | Youth access to tobacco products. |
| G.S. 14-316.1 | Contributing to delinquency and neglect by parents and others. |
| G.S. 15-155.1 | Reports to district attorneys of aid to dependent children and illegitimate births. |
| G.S. 15-155.2 | District attorney to take action on report of aid to dependent child or illegitimate birth. |

G.S. 15-206	Cooperation with Department of Correction and officials of local units.
G.S. 15A-533	Right to pretrial release in capital and noncapital cases.
G.S. 15A-534.2	Detention of impaired drivers.
G.S. 17C-3	North Carolina Criminal Justice Education and Training Standards Commission established; members; terms; vacancies.
G.S. 18B-805	Distribution of revenue.
G.S. 19-8.2	Right of entry.
G.S. 20-17.6	Restoration of a license after a conviction of driving while impaired or driving while less than 21 years old after consuming alcohol or drugs.
G.S. 20-79.5	Special registration plates for elected and appointed State government officials.
G.S. 20-79.7	Fees for special registration plates and distribution of the fees.
G.S. 20-84	Vehicles owned by State, municipalities or orphanages, etc.; certain vehicles operated by the local chapters of American National Red Cross.
G.S. 35A-1116	Costs and Fees.
G.S. 48-1-101	Definitions.
G.S. 50-13.4	(For applicability see note) Action for support of minor child.
G.S. 50-13.9	Procedure to insure payment of child support.
G.S. 52C-3-309	Duties of State information agency.
G.S. 58-3-185	Lien created for payment of past-due child support obligations.
G.S. 58-50-50	Preferred provider; definition.
G.S. 58-51-120	Coverage of children.
G.S. 58-64-85	Other licensing or regulation.
G.S. 58-67-10	Establishment of health maintenance organizations.
G.S. 58-3-185	Lien created for payment of past-due child support obligations.
G.S. 58-68-15	Commission composition; appointment; terms; reimbursement; and liability.
G.S. 62-157	Dual Party relay system.
G.S. 66-87	Injunctions.
G.S. 66-88	Application of Article after enactment of federal legislation.
G.S. 70-29	Discovery of remains and notification of authorities.
G.S. 72-34	Verification of application; disqualifications for license.
G.S. 88-28.1	Restraining orders against persons engaging in illegal practices.
G.S. 90-14	Revocation, suspension annulment or denial of license.
G.S. 90-21.25	Definitions.
G.S. 90-88	Authority to control.

G.S. 90-96	Conditional discharge and expunction of records for first offense.
G.S. 90-96.01	Drug education schools; responsibilities of the Department of Human Resources; fees.
G.S. 90-99	Republishing of schedules.
G.S. 90-101	Annual registration and fee to engage in listed activities with controlled substances; effect of registration; exceptions; waiver; inspection.
G.S. 90-102	Additional provisions as to registration.
G.S. 90-107	Prescriptions, stocks, etc., open to inspection by officials.
G.S. 90-109	Licensing required.
G.S. 90-109.1	Treatment.
G.S. 90-111	Cooperative arrangements.
G.S. 90-113.3	Education and research.
G.S. 90-113.14	Conditional discharge and expunction of records for first offenses.
G.S. 90-113.32	Board.
G.S. 90-271	Operation lawful upon request of married person or person over 18.
G.S. 90-294	License required; Article not applicable to certain activities.
G.S. 90-405	Definitions.
G.S. 90-408	Exceptions for underserved areas.
G.S. 90-501	Board of Employee Assistance Professionals; members.
G.S. 93B-12	Information from licensing boards having authority over health care providers.
G.S. 93B-13	Revocation when licensing privilege forfeited for nonpayment of child support.
G.S. 96-8	Definitions.
G.S. 96-17	Protection of rights and benefits; deductions for child support obligations.
G.S. 105-60	(Repealed effective July 1, 1997) Day-care facilities.
G.S. 105-164.13	Retail sales and use tax.
G.S. 105-187.6	Exemptions from highway use tax.
G.S. 105-449.106	Quarterly refunds for certain local governmental entities, nonprofit organizations, and taxicabs.
G.S. 105A-2	Definitions.
G.S. 106-141	Examinations and investigations.
G.S. 106-266.17	Marketing agreements not to be deemed illegal or in restraint of trade; conflicting laws.
G.S. 106-583	Policy of State; cooperation of departments and agencies with Agricultural Extension Service.
G.S. 108A-1	Creation.
G.S. 108A-2	Size.
G.S. 108A-3	Method of appointment; residential qualifications; fee or compensation for services; consolidated human services board appointments.

G.S. 108A-9	Duties and responsibilities.
G.S. 108A-10	Fees.
G.S. 108A-14	Duties and responsibilities.
G.S. 108A-15.1	Consolidated human services board; human services director.
G.S. 108A-18	Duties and responsibilities.
G.S. 108A-24	Definitions.
G.S. 108A-25	Creation of programs.
G.S. 108A-26	Certain financial assistance and in-kind goods not considered in determining assistance paid under Chapters 108A and 111.
G.S. 108A-39.1	AFDC Emergency Assistance Program.
G.S. 108A-51	Authorization for Food Stamp Program.
G.S. 108A-59	Acceptance of medical assistance constitutes assignment to the State of right to third party benefits; recovery procedure.
G.S. 108A-62	Therapeutic leave for medical assistance patients.
G.S. 108A-65	Conflict of interest.
G.S. 108A-68	Drug Use Review Program; rules.
G.S. 108A-69	Employer obligations.
G.S. 108A-70	Recoupment of amounts spent on medical care.
G.S. 108A-70.5	Medicaid Estate Recovery Plan.
G.S. 108A-79	Appeals.
G.S. 108A-80	Confidentiality of records.
G.S. 108A-103	Duty of director upon receiving report.
G.S. 108B-23	Designation of administering agency powers and responsibilities.
G.S. 110-50	Consent required for bringing child into State for placement or adoption.
G.S. 110-51	Bond required.
G.S. 110-52	Consent required for removing child from State.
G.S. 110-55	Violation of Article a misdemeanor.
G.S. 110-56	Definitions.
G.S. 110-57.1	Adoption of Compact.
G.S. 110-57.3	Agreements under Compact.
G.S. 110-86	Definitions.
G.S. 110-90	Powers and duties of Secretary of Human Resources.
G.S. 110-90.2	Mandatory day care providers' criminal history checks.
G.S. 110-93	Licensing procedure.
G.S. 110-100	Licenses are property of the State.
G.S. 110-102	Information for parents.
G.S. 110-129	Definitions.
G.S. 110-130.1	Non-AFDC services.
G.S. 110-136	Garnishment for enforcement of child-support obligation.
G.S. 110-136.2	Use of unemployment compensation benefits for child support.

G.S. 110-136.3	Income withholding procedures; applicability.
G.S. 110-136.9	Payment of withheld funds.
G.S. 110-139	Location of absent parents.
G.S. 110-139.1	Access to federal parent locator service; parental kidnapping and child custody cases.
G.S. 110-141	Effectuation of intent of Article.
G.S. 110-142	Definitions; suspension and revocation of occupational, professional, or business licenses of obligors who are delinquent in court-ordered child support or subject to outstanding warrants for failure to appear for failure to comply with the terms of a court order for child support.
G.S. 110-142.1	IV-D notified suspension, revocation, and issuance of occupational, professional, or business licenses of obligors who are delinquent in court-ordered child support or subject to outstanding warrants for failure to appear for failure to comply with the terms of a court order for child support.
G.S. 110-142.2	Suspension, revocation, restriction of license to operate a motor vehicle or hunting, fishing, or trapping licenses; refusal of registration of motor vehicle.
G.S. 111-4	Register of State's blind.
G.S. 111-5	Information and aid bureaus.
G.S. 111-6	Training schools and workshops; training outside State; sale of products; direct relief; matching of federal funds.
G.S. 111-6.1	Rehabilitation center for the adult blind.
G.S. 111-7	Promotion visits.
G.S. 111-8	Investigations; eye examination and treatment.
G.S. 111-8.1	Certain eye examinations to be reported to Department of Human Resources.
G.S. 111-12.1	Acceptance of private contributions for particular facilities authorized.
G.S. 111-12.2	Contributions treated as State funds to match federal funds.
G.S. 111-12.3	Rules and regulations as to receiving and expending contributions.
G.S. 111-12.5	Reserve and operating capital fund.
G.S. 111-12.6	Disposition of funds deposited with or transferred to State Treasurer.
G.S. 111-13	Administration of assistance; objective standards for personnel rules and regulations.
G.S. 111-14	Application for benefits under Article; investigation and award by county commissioners.
G.S. 111-16	Application for aid; notice of award; review.
G.S. 111-17	Amount and payment of assistance; source of funds.
G.S. 111-18	Payment of awards.

G.S. 111-20	Awards subject to reopening upon change in condition.
G.S. 111-24	Cooperation with federal departments or agencies; grants from federal government.
G.S. 111-25	Acceptance and use of federal aid.
G.S. 111-27	Department of Human Resources to promote employment of needy blind persons; vending stands on public property.
G.S. 111-27.1	Department of Human Resources authorized to conduct certain business operations.
G.S. 111-27.2	Blind vending-stand operators; retirement benefits.
G.S. 111-28	Department of Human Resources authorized to receive federal, etc., grants for benefit of needy blind; use of information concerning blind persons.
G.S. 111-28.1	Department of Human Resources authorized to cooperate with federal government in rehabilitation of blind.
G.S. 111-29	Expenditure of equalizing funds; grants affording maximum federal aid; lending North Carolina reports.
G.S. 111-30	Personal representatives for certain recipients of aid to the blind.
G.S. 111-31	Courts for purposes of §§ 111-30 to 111-33; records.
G.S. 111-41	Preference to visually handicapped persons in operation of vending facilities; responsibility of Department of Human Resources.
G.S. 111-44	Location and services provided by State agency.
G.S. 111-46	Vending facilities operated by those other than visually handicapped persons.
G.S. 111-47	Exclusions.
G.S. 111-48	Preference to blind persons in operation of highway vending facilities.
G.S. 111-50	Operations of highway vending.
G.S. 113-271	Hook-and-line licenses in inland fishing waters.
G.S. 114-19.2	Criminal record checks of school personnel.
G.S. 114-19.4	Criminal record checks of foster parents.
G.S. 114-19.5	Criminal record checks of child day care providers.
G.S. 115C-110	Services mandatory; single-agency responsibility; State and local plans; census and registration.
G.S. 115C-111	Free appropriate education for all children with special needs.
G.S. 115C-113	Diagnosis and evaluation; individualized education program.
G.S. 115C-113.1	Surrogate parents.
G.S. 115C-115	Placements in private schools, out-of-state schools and schools in other local educational agencies.
G.S. 115C-117	Creation.
G.S. 115C-121	Establishment; organization; powers and duties.

G.S. 115C-122	Early childhood development program; evaluation and placement of children.
G.S. 115C-123	Establishment; operations.
G.S. 115C-124	Pupils admitted; education.
G.S. 115C-126.1	Fees for athletic programs; appeal.
G.S. 115C-127	Incorporation, name and management.
G.S. 115C-128	Admission of pupils; how admission obtained.
G.S. 115C-130	Admission of pupils from other states.
G.S. 115C-131	Department of Human Resources may confer diplomas.
G.S. 115C-132	State Treasurer is ex officio treasurer of institution.
G.S. 115C-139	Interlocal cooperation.
G.S. 115C-144	Departmental requests.
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G.S. 115C-325	System of employment for public school teachers.
G.S. 115D-1	Statement of purpose.
G.S. 115D-5	Administration of institution by State Board of Community Colleges; personnel exempt from State Personnel Act; extension courses; tuition waiver; in-plant training; contracting, etc., for establishment and operation of extension units of the community college system; use of existing public school facilities.
G.S. 116-37.1	Center for public television.
G.S. 116-209.30	Social Workers' Education Loan Fund.
G.S. 120-65	Assistance of Department of Human Resources, State Board of Education, and Department of Public Instruction.
G.S. 120-70.72	Membership; cochairmen; vacancies.
G.S. 120-182	(For applicability see note) Commission; membership.
G.S. 122A-5.13	Adult Care Home, Group Home, and Nursing Home Fire Protection Fund authorized; authority.
G.S. 122C-3	Definitions.
G.S. 122C-113	Cooperation between Secretary and other agencies.
G.S. 122C-117	Powers and duties of the area authority.
G.S. 122C-124	Area Authority funding suspended.
G.S. 122C-125	Area Authority financial failure; State assumption of financial control.
G.S. 122C-197	Mediation.
G.S. 122C-199	Administrative review by Review Officer.
G.S. 122C-403	Secretary's authority over Camp Butner reservation.
G.S. 122C-412.1	Butner Advisory Council; powers.
G.S. 122C-412.2	Butner Advisory Council; planning responsibility.
G.S. 122C-421	Joint security force.
G.S. 126-5	Employees subject to Chapter; exemptions.
G.S. 130A-248	Regulation of food and lodging establishments.
G.S. 131A-19	Annual report.

G.S. 131D-1	Licensing of maternity homes.
G.S. 131D-2	Licensing of adult care homes for the aged and disabled.
G.S. 131D-4.2	Adult care homes; family care homes; annual cost reports; exemptions; enforcement.
G.S. 131D-4.3	Adult care home rules.
G.S. 131D-6	Certification of adult day care programs; purpose; definition; penalty.
G.S. 131D-10.2	Definitions.
G.S. 131D-10.3A	Mandatory criminal checks of foster parents.
G.S. 131D-10.6A	Training by the Division of Social Services required.
G.S. 131D-11	Inspection.
G.S. 131D-12	Approval of new facilities.
G.S. 131D-13	Failure to provide information.
G.S. 131D-21	Declaration of residents' rights.
G.S. 131D-24	Notice to resident.
G.S. 131D-26	Enforcement and investigation.
G.S. 131D-27	Confidentiality.
G.S. 131D-28	Civil action.
G.S. 131D-29	Revocation of license.
G.S. 131D-31	Adult care home community advisory committees.
G.S. 131D-32	Functions of adult care home community advisory committees.
G.S. 131D-34	Penalties; remedies.
G.S. 131E-1	Definitions.
G.S. 131E-13	Lease or sale of hospital facilities to for-profit corporations by municipalities and hospital authorities.
G.S. 131E-76	Definitions.
G.S. 131E-117	Declaration of patient's rights.
G.S. 131E-125	Revocation of a license.
G.S. 131E-128	Nursing home advisory committees.
G.S. 131E-138	Licensure requirements.
G.S. 131E-154.2	Definitions.
G.S. 131E-159	Requirements for certification.
G.S. 131E-175	Findings of fact.
G.S. 131E-176	Definitions.
G.S. 131E-177	Department of Human Resources is designated State Health Planning and Development Agency; powers and duties.
G.S. 131E-188	Administrative and judicial review.
G.S. 131E-190	Enforcement and sanctions.
G.S. 131E-192.2	Definitions.
G.S. 131E-201	Definitions.
G.S. 131E-214.1	Definitions.
G.S. 131E-214.4	Statewide data processor.
G.S. 131F-2	Definitions.
G.S. 134A-1	Legislative intent and purpose.

G.S. 134A-2	Definitions.
G.S. 134A-6	Transfer of institutions.
G.S. 134A-8	Powers and duties of Secretary of Human Resources.
G.S. 135-16.1	Blind or visually handicapped employees.
G.S. 135-40.2	Eligibility.
G.S. 135-40.6	Benefits subject to deductible and coinsurance (comprehensive benefits).
G.S. 136-18	Powers of Department of Transportation.
G.S. 136-41.1	Appropriation to municipalities; allocation of funds generally; allocation to Butner.
G.S. 136-89.56	Commercial enterprises.
G.S. 137-31.3	Members of board of directors; terms of office; per diem and expenses.
G.S. 143-23.2	Transfers to Department of Human Resources.
G.S. 143-31.1	Study and review of plans and specifications for building, improvement, etc., projects.
G.S. 143-31.3	Grants to nonstate health and welfare agencies.
G.S. 143-48.1	Medicaid program exemption.
G.S. 143-49	Powers and duties of Secretary.
G.S. 143-116.6	Rules concerning conduct; violation.
G.S. 143-116.7	Motor vehicle laws applicable to streets, alleys and driveways on the grounds of Department of Human Resources institutions; traffic regulations; registration and regulation of motor vehicles.
G.S. 143-117	Institutions included.
G.S. 143-117.1	Definitions.
G.S. 143-118	Secretary of Human Resources to fix cost and charges.
G.S. 143-126.1	Lien on property for unpaid balance due institution.
G.S. 143-127.1	Parental liability for payment of cost of care for long-term patients in Department of Human Resources facilities.
G.S. 143-127.2	Repair or replacement of personal property.
G.S. 143-138	North Carolina State Building Code.
G.S. 143-166.2	Definitions.
G.S. 143-166.13	Persons entitled to benefits under Article.
G.S. 143-507	Establishment of emergency medical services program.
G.S. 143-508	Department of Human Resources to establish program; rules and regulations of North Carolina Medical Care Commission.
G.S. 143-509	Powers and duties of Secretary.
G.S. 143-510	(For applicability see note) Emergency Medical Advisory Council.
G.S. 143-511	Powers and duties of the Council.
G.S. 143-512	Regional demonstration plans.
G.S. 143-513	Regional emergency medical services councils.

- G.S. 143-514 Training programs; utilization of emergency services personnel.
- G.S. 143-516 Single State agency.
- G.S. 143-545A Purpose, establishment and administration of program; services.
- G.S. 143-546A Duties of Secretary; cooperation with federal rehabilitation services administration or successor.
- G.S. 143-548 Vocational Rehabilitation Advisory Council.
- G.S. 143-576.6 Community Child Protection Teams; responsibility for training of team members.
- G.S. 143B-2 Interim applicability of the Executive Organization Act of 1973.
- G.S. 143B-6 Principal departments.
- G.S. 143B-139.3 Department of Human Resources -- authority to contract with other entities.
- G.S. 143B-139.4 Department of Human Resources; authority to assist private nonprofit foundations.
- G.S. 143B-139.5 Department of Human Resources; adult care State/county share of costs.
- G.S. 143B-139.6 Confidentiality of records.
- G.S. 143B-139.7 Consolidated county human services funding.
- G.S. 143B-147 Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services -- creation, powers and duties.
- G.S. 143B-148 Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services -- members; selection; quorum; compensation.
- G.S. 143B-150.5 Family Preservation Services Program established; purpose.
- G.S. 143B-150.6 Program services; eligibility; grants for local projects; fund transfers.
- G.S. 143B-152.1 Establishment of program; purpose; goals.
- G.S. 143B-152.5 Grants review and selection.
- G.S. 143B-152.6 Cooperation of State and local agencies.
- G.S. 143B-152.7 Program evaluation; reporting requirements.
- G.S. 143B-152.10 Family Resource Center Grant Program; creation; purpose; intent.
- G.S. 143B-152.11 Administration of program.
- G.S. 143B-152.13 Grants review and selection.
- G.S. 143B-152.14 Cooperation of State and local agencies.
- G.S. 143B-152.15 Program evaluation; reporting requirements.
- G.S. 143B-153 Social Services Commission -- creation, powers and duties.
- G.S. 143B-154 Social Services Commission -- members; selection; quorum; compensation.
- G.S. 143B-157 Commission for the Blind -- creation, powers and duties.
- G.S. 143B-158 Commission for the Blind -- members; selection; quorum; compensation.

- G.S. 143B-161 Professional Advisory Committee -- creation, powers and duties.
- G.S. 143B-162 Professional Advisory Committee -- members; selection; quorum; compensation.
- G.S. 143B-163 Consumer and Advocacy Advisory Committee for the Blind -- creation, powers and duties.
- G.S. 143B-164 (For applicability, see note) Consumer and Advocacy Advisory Committee for the Blind -- members; selection; quorum; compensation.
- G.S. 143B-165 North Carolina Medical Care Commission -- creation, powers and duties.
- G.S. 143B-166 North Carolina Medical Care Commission -- members; selection; quorum; compensation.
- G.S. 143B-168.3 Child Day-Care Commission -- powers and duties.
- G.S. 143B-168.4 Child Day-Care Commission -- members; selection; quorum.
- G.S. 143B-168.5 Child Day Care -- special unit.
- G.S. 143B-168.11 Early childhood initiatives; purpose; definitions.
- G.S. 143B-176.1 Board of Directors of the Governor Morehead School -- creation, powers and duties.
- G.S. 143B-176.2 Board of Directors of the Governor Morehead School -- members; selection; quorum; compensation.
- G.S. 143B-177 Council on Developmental Disabilities -- creation, powers and duties.
- G.S. 143B-179 Council on Developmental Disabilities -- members; selection; quorum; compensation.
- G.S. 143B-180 Governor's Advisory Council on Aging -- creation, powers and duties.
- G.S. 143B-181.1 Division of Aging -- creation, powers and duties.
- G.S. 143B-181.1A Plan for serving older adults; inventory of existing data; cooperation by State agencies.
- G.S. 143B-181.1B Division as clearinghouse for information; agencies to provide information.
- G.S. 143B-181.2 Assistant Secretary for Aging -- appointment and duties.
- G.S. 143B-181.4 Responsibility for policy.
- G.S. 143B-181.6 Purpose and intent.
- G.S. 143B-181.10 Respite care program established; eligibility; services; administration; payment rates.
- G.S. 143B-181.15 Long-Term Care Ombudsman Program/Office; policy.
- G.S. 143B-181.17 Office of State Long-Term Care Ombudsman Program/Office; establishment.
- G.S. 143B-181.18 Office of State Long-Term Care Ombudsman Program/State Ombudsman duties.
- G.S. 143B-181.55 Creation, membership, meetings, organization, and adoption of measures.
- G.S. 143B-216.30 Definitions.

- G.S. 143B-216.31 Council for the Deaf and the Hard of Hearing -- creation and duties.
- G.S. 143B-216.32 Council for the Deaf and the Hard of Hearing -- membership; quorum; compensation.
- G.S. 143B-216.33 Division of Services for the Deaf and Hard of Hearing -- creation, powers and duties.
- G.S. 143B-269 Black Mountain Advancement Center for Women -- established; inmates; medical and food services; training; work release.
- G.S. 143B-407 North Carolina State Commission of Indian Affairs -- membership; term of office; chairman; compensation.
- G.S. 143B-411.1 North Carolina Advisory Council on the Eastern Band of the Cherokee -- creation; membership; terms of office.
- G.S. 143B-415 (For applicability see note) Governor's Advocacy Council on Children and Youth -- members; selection; quorum; compensation.
- G.S. 143B-417 North Carolina Internship Council -- creation; powers and duties.
- G.S. 143B-426.25 North Carolina Farmworker Council -- creation; membership; meetings.
- G.S. 143B-478 Governor's Crime Commission -- creation; composition; terms; meetings, etc.
- G.S. 147-45 Distribution of copies of State publications.
- G.S. 148-19 Health services.
- G.S. 150B-3 Special provisions on licensing.
- G.S. 153A-217 Definitions.
- G.S. 153A-221 Minimum standards.
- G.S. 153A-221.1 Standards and inspections.
- G.S. 153A-222 Inspections of local confinement facilities.
- G.S. 153A-226 Sanitation and food.
- G.S. 153A-230.4 Standards.
- G.S. 153A-230.5 Satellite jails/work release units built with non-State funds.
- G.S. 153A-250 Ambulance services.
- G.S. 153A-256 County home.
- G.S. 162-56 Place of confinement.
- G.S. 162A-21 Preamble.
- G.S. 163-152.1 Assistance to blind voters in primaries and elections.
- G.S. 168-2 Right of access to and use of public places.
- G.S. 168-4.2 May be accompanied by assistance dog.
- G.S. 168-4.3 Training and registration of assistance dog.
- G.S. 168-14 Vocational rehabilitation services for deaf persons.

(b) The phrase "Human Resources" is deleted and replaced by the phrase "Health and Human Services" wherever it occurs in each of the following sections of the General Statutes:

- G.S. 48-2-604 Denying petition to adopt a minor (S.L. 1997-215)

G.S. 58-3-215	Genetic information in health insurance (S.L. 1997-350)
G.S. 90-411	Record copy fee (as amended by Section 11.3 of this act)
G.S. 90-85.27	Definitions (S.L. 1997-76)
G.S. 108A-74	County Department failure to provide services (S.L. 1997-390)
G.S. 114-19.6	Criminal history record check of employees and applicants for employment with DHR (S.L. 1997-260)
G.S. 120-209	Commission duties (S.L. 1997-390)
G.S. 122C-412	Butner Planning Commission (S.L. 1997-59)

Section 11A.119. (a) The phrase "Environment, Health, and Natural Resources" is deleted and replaced by the phrase "Environment and Natural Resources" wherever it occurs in each of the following sections of the General Statutes:

G.S. 7A-29	Appeals of right from certain administrative agencies.
G.S. 14-131	Trespass on land under option by the federal government.
G.S. 14-137	Willfully or negligently setting fire to woods and fields
G.S. 15A-1343	Conditions of probation.
G.S. 20-79.5	Special registration plates for elected and appointed State government officials.
G.S. 20-128	Prevention of noise, smoke, etc.; muffler cut-outs regulated.
G.S. 20-183.7	Fees for performing an inspection and putting an inspection sticker on a vehicle; use of civil penalties.
G.S. 47-30	Plats and subdivisions; mapping requirements.
G.S. 58-78.1	(Applicable January 1, 1997) State Fire and Rescue Commission created; membership.
G.S. 62-102	Application for certificate.
G.S. 68-43	Authority of Secretary of Environment, Health, and Natural Resources to remove or confine ponies on Ocracoke Island and Shackleford Banks.
G.S. 69-25.5	Methods of providing fire protection.
G.S. 74-38	Commission to file copies of bylaws with Department of Environment, Health, and Natural Resources.
G.S. 74-49	Definitions.
G.S. 74-53	Reclamation plan.
G.S. 74-76	Definitions.
G.S. 75A-17	Enforcement of Chapter.
G.S. 75A-5.1	Commercial fishing boats; renewal of number.
G.S. 76-40	Navigable waters; certain practices regulated.
G.S. 77-13	Obstructing streams a misdemeanor.

G.S. 77-14	Obstructions in streams and drainage ditches.
G.S. 87-85	Definitions.
G.S. 87-91	Notice.
G.S. 87-94	Civil penalties.
G.S. 87-95	Injunctive relief.
G.S. 90A-37	Classification of water pollution control systems.
G.S. 90A-38	Grades of certificates.
G.S. 90A-39	Operator qualifications and examination.
G.S. 90A-43	Promotion of training and other powers.
G.S. 90A-47.3	Qualifications for certification; training; examination.
G.S. 100-2	Approval of memorials before acceptance by State; regulation of existing memorials, etc.; "work of art" defined; highway markers.
G.S. 102-8	Administrative agency.
G.S. 102-9	Duties and powers of the agency.
G.S. 100-11	Duties.
G.S. 100-12	Roads, trails, and fences authorized; protection of property.
G.S. 100-13	Fees for use of improvements; fees for other privileges; leases; rules.
G.S. 100-14	Use of fees and other collections.
G.S. 102-1.1	Name and description in relation to 1983 North American Datum.
G.S. 102-10	Prior work.
G.S. 102-15	Improvement of land records.
G.S. 102-17	County projects eligible for assistance.
G.S. 104E-10.1	Additional requirements for low-level radioactive waste facilities.
G.S. 104E-5	Definitions.
G.S. 104E-7	Radiation Protection Commission-Creation and powers.
G.S. 104E-9	Powers and functions of Department of Environment, Health, and Natural Resources.
G.S. 104E-15	Transportation of radioactive materials.
G.S. 104E-17	Payments to State and local agencies.
G.S. 104E-24	Administrative penalties.
G.S. 104F-4	(Applicable January 1, 1997) Advisory Committee.
G.S. 104G-11	Technology, license application, and environmental impact statement.
G.S. 104G-13	Closure and decommissioning.
G.S. 104G-22	Inter-Agency Committee.
G.S. 105-122	Franchise or privilege tax on domestic and foreign corporations.
G.S. 105-130.10	Amortization of air-cleaning devices, waste treatment facilities and recycling facilities.
G.S. 105-130.34	Credit for certain real property donations.
G.S. 105-151.12	Credit for certain real property donations.
G.S. 105-275	Property classified and excluded from the tax base.

G.S. 105-277.7	Use-Value Advisory Board.
G.S. 105A-2	Definitions.
G.S. 106-202.14	Creation of Board; membership; terms; chairman; quorum; board actions; compensation.
G.S. 106-202.17	Creation of committee; membership; terms; chairman; meetings; committee action; quorum; compensation.
G.S. 106-760	Advisory Board.
G.S. 106-762	Fish disease management.
G.S. 106-802	Definitions.
G.S. 106-805	Written notice of swine farms.
G.S. 110-142.2	Suspension, revocation, restriction of license to operate a motor vehicle, or hunting, fishing, or trapping licenses; refusal of registration of motor vehicle.
G.S. 113-1	Meaning of terms.
G.S. 113-28.1	Designated employees commissioned special peace officers by Governor.
G.S. 113-28.2	Powers of arrest.
G.S. 113-28.4	Oaths required.
G.S. 113-29	Policy and plan to be inaugurated by Department of Environment, Health, and Natural Resources.
G.S. 113-35	State timber may be sold by Department of Environment, Health, and Natural Resources; forest nurseries; control over parks, etc.; operation of public service facilities; concessions to private concerns.
G.S. 113-44.9	Definitions.
G.S. 113-51	Powers of Department of Environment, Health, and Natural Resources.
G.S. 113-60.4	Purpose and intent.
G.S. 113-60.14	Compact Administrator; North Carolina members of advisory committee.
G.S. 113-60.15	Agreements with nonconductor states.
G.S. 113-60.22	Definitions.
G.S. 113-60.32	Definitions.
G.S. 113-60.33	Standby duty.
G.S. 113-61	Private limited dividend corporations may be formed.
G.S. 113-64	Duties of supervision by Secretary of Environment, Health, and Natural Resources.
G.S. 113-77.6	Definitions.
G.S. 113-81.1	Authority to render scientific forestry services.
G.S. 113-128	Definitions relating to agencies and their powers.
G.S. 113-145.5	Clean Water Management Trust Fund: Board of Trustees established; membership qualifications; vacancies; meetings and meeting facilities.
G.S. 113-145.8	Clean Water Management Trust Fund: Advisory Council.

G.S. 113-378	Persons drilling for oil or gas to register and furnish bond.
G.S. 113-389	Definitions.
G.S. 113A-33	Definitions.
G.S. 113A-52	Definitions.
G.S. 113A-74	Appalachian Trails System; connecting or side trails; coordination with the National Trails System Act.
G.S. 113A-75	Assistance under this Article with the National Trails System Act (PL 90-543).
G.S. 113A-85	Definitions.
G.S. 113A-103	Definitions.
G.S. 113A-104	Coastal Resources Commission.
G.S. 113A-107	State guidelines for the coastal area.
G.S. 113A-112	Planning grants.
G.S. 113A-113	Areas of environmental concern; in general.
G.S. 113A-118	Permit required.
G.S. 113A-124	Additional powers and duties.
G.S. 113A-129.2	Coastal Reserve Program.
G.S. 113A-153	North Carolina Land Policy Council.
G.S. 113A-164.3	Definitions.
G.S. 113A-166	Rules.
G.S. 113A-167	Existing billboards.
G.S. 113A-168	Removal, etc., of unlawful advertising.
G.S. 113A-169	Condemnation procedure.
G.S. 113A-170	Violation a misdemeanor; injunctive relief.
G.S. 113A-177	Statement of purpose.
G.S. 113A-178	Definitions.
G.S. 113A-183	Forest Development Fund.
G.S. 113A-193	Duties of Secretaries.
G.S. 113A-194	Assessment rates.
G.S. 113A-208	Regulation of mountain ridge construction by counties and cities.
G.S. 113A-212	Assistance to counties and cities under ridge law.
G.S. 113A-221	Definitions.
G.S. 113B-3	Composition of Council; appointments; terms of members; qualifications.
G.S. 120-70.33	Powers and duties.
G.S. 120-70.43	Powers and duties.
G.S. 120-70.62	Powers and duties.
G.S. 120-150	(Effective January 1, 1997) Creation; appointment of members.
G.S. 120-161	Facilities and staff.
G.S. 120-183.7	Fees for performing an inspection and putting an inspection sticker on a vehicle; use of civil penalties.
G.S. 121-4	Powers and duties of the Department of Cultural Resources.
G.S. 126-5	Employees subject to Chapter; exemptions.

G.S. 130A-310.8	Recordation of inactive hazardous substance or waste disposal sites.
G.S. 130A-336	Improvement permit and authorization for wastewater system construction required.
G.S. 130A-342	Aerobic systems.
G.S. 130B-2	Definitions.
G.S. 130B-22	Inter-Agency Committee on Hazardous Waste.
G.S. 136-21	Drainage of highway; application to court; summons; commissioners.
G.S. 136-28.8	Use of recycled materials in construction.
G.S. 136-44.12	Maintenance of roads and parking lots in areas administered by the Division of Parks and Recreation.
G.S. 136-44.36D	Recreational leasing requirements.
G.S. 136-102.3	Filing record of results of test drilling or boring with Secretary of Administration and Secretary of Environment, Health, and Natural Resources.
G.S. 139-4	Powers and duties of Soil and Water Conservation Commission generally.
G.S. 139-5	Creation of soil and water conservation districts.
G.S. 139-7	District board of supervisors-appointive members; organization of board; certain powers and duties.
G.S. 139-8	Powers of districts and supervisors.
G.S. 139-13	Discontinuance of districts.
G.S. 139-46	Recreational and related aspects of watershed improvement programs.
G.S. 143-58.2	State policy; bid procedures and specifications; identification of products.
G.S. 143-116.8	Motor vehicle laws applicable to State parks and forests road system.
G.S. 143-138	North Carolina State Building Code.
G.S. 143-166.2	Definitions.
G.S. 143-166.7	Applicability of Article.
G.S. 143-166.13	Persons entitled to benefits under Article.
G.S. 143-169	Limitations on publications.
G.S. 143-177.3	Sources of funds.
G.S. 143-211	Declaration of public policy.
G.S. 143-212	Definitions.
G.S. 143-214.8	Wetlands Restoration Program; established.
G.S. 143-214.11	Wetlands Restoration Program; compensatory mitigation.
G.S. 143-214.13	Wetlands Restoration Program: reporting requirement.
G.S. 143-215.3B	Wastewater Treatment Works Emergency Maintenance, Operation and Repair Fund.
G.S. 143-215.18	Map or description of boundaries of capacity use areas.
G.S. 143-215.22I	Regulation of surface water transfers.

- G.S. 143-215.22J Scientific Advisory Council on Water Resources and Coastal Fisheries Management established; membership, compensation.
- G.S. 143-215.40 Resolutions and ordinances assuring local cooperation.
- G.S. 143-215.70 Secretary of Environment, Health, and Natural Resources authorized to accept applications.
- G.S. 143-215.73A Water Resources Development Plan.
- G.S. 143-215.74F Program authorized.
- G.S. 143-215.77 Definitions.
- G.S. 143-215.86 Other State agencies and State-designated local agencies.
- G.S. 143-215.94HH Oil spill contingency plan.
- G.S. 143-240 Creation of Wildlife Resources Commission; districts; qualifications of members.
- G.S. 143-243 Organization of the Commission; election of officers; Robert's Rules of Order.
- G.S. 143-252 Article subject to Chapter 113.
- G.S. 143-253 Jurisdictional questions.
- G.S. 143-286.1 Nutbush Conservation Area.
- G.S. 143-289 Contributions from certain counties and municipalities authorized; other grants or donations.
- G.S. 143-320 Definitions.
- G.S. 143-323 Functions of Department of Environment, Health, and Natural Resources.
- G.S. 143-350 Definitions.
- G.S. 143-439 Pesticide Advisory Committee; creation and functions.
- G.S. 143-670 Definitions.
- G.S. 143-671 Adopt-A-Beach Program; established; purposes.
- G.S. 143B-2 Interim applicability of the Executive Organization Act of 1973.
- G.S. 143B-6 Principal departments.
- G.S. 143B-86 America's Four Hundredth Anniversary Committee-members; selection; quorum; compensation.
- G.S. 143B-115 John Motley Morehead Memorial Commission-members; selection; quorum; compensation.
- G.S. 143B-131.2 Roanoke Island Commission -- Purpose, powers and duties.
- G.S. 143B-279.1 Department of Environment, Health, and Natural Resources-creation.
- G.S. 143B-279.4 The Department of Environment, Health, and Natural Resources-Secretary; Deputy Secretaries.
- G.S. 143B-281.1 Wildlife Resources Commission-transfer; independence preserved; appointment of Executive Director and employees.

G.S. 143B-282	Environmental Management Commission-creation; powers and duties.
G.S. 143B-282.1	Environmental Management Commission-quasi-judicial powers; procedures.
G.S. 143B-283	(Applicable January 1, 1997) Environmental Management Commission-members; selection; removal; compensation; quorum; services.
G.S. 143B-285.22	Creation.
G.S. 143B-285.23	Powers and duties of the Secretary of Environment, Health, and Natural Resources.
G.S. 143B-289.2	Definitions.
G.S. 143B-289.3	Marine Fisheries Commission-creation; purpose and transfer of function.
G.S. 143B-289.4	Marine Fisheries Commission-powers and duties.
G.S. 143B-289.5	Marine Fisheries Commission-members; selection; removal; compensation; quorum; services.
G.S. 143B-289.11	Jurisdictional questions.
G.S. 143B-289.12	Rules of Department continued.
G.S. 143B-289.20	Office of Marine Affairs-organization; powers and duties.
G.S. 143B-289.22	Local advisory committees; duties; membership.
G.S. 143B-290	North Carolina Mining Commission-creation; powers and duties.
G.S. 143B-294	Soil and Water Conservation Commission-creation; powers and duties.
G.S. 143B-295	Soil and Water Conservation Commission-members; selection; removal; compensation; quorum; services.
G.S. 143B-298	Sedimentation Control Commission-creation; powers and duties.
G.S. 143B-299	Sedimentation Control Commission-members; selection; compensation; meetings.
G.S. 143B-300	Water Pollution Control System Operators Certification Commission-creation; powers and duties.
G.S. 143B-301	Water Pollution Control System Operators Certification Commission-members; selection; removal; compensation; quorum; services.
G.S. 143B-308	Forestry Council-creation; powers and duties.
G.S. 143B-309	Forestry Council-members; chairperson; selection; removal; compensation; quorum.
G.S. 143B-313.1	North Carolina Parks and Recreation Authority; creation; powers and duties.
G.S. 143B-313.2	North Carolina Parks and Recreation Authority; members; selection; compensation; meetings.
G.S. 143B-317	Air Quality Compliance Advisory Panel-creation; powers and duties.

G.S. 143B-318	Air Quality Compliance Advisory Panel-members; chairman; selection; removal; compensation; quorum; services.
G.S. 143B-333	North Carolina Trails Committee-creation; powers and duties.
G.S. 143B-334	North Carolina Trails Committee-members; selection; removal; compensation.
G.S. 143B-335	North Carolina Zoological Park Council-creation; powers and duties.
G.S. 143B-336	North Carolina Zoological Park Council-members; selection; removal; chairman; compensation; quorum; services.
G.S. 143B-336.1	Special Zoo Fund.
G.S. 143B-344.17	North Carolina Aquariums Commission-organization, powers, and duties.
G.S. 143B-344.18	Commission created; membership.
G.S. 143B-407	(Applicable January 1, 1997) North Carolina State Commission of Indian Affairs-membership; term of office; chairman; compensation.
G.S. 143B-411.1	North Carolina Advisory Council on the Eastern Band of the Cherokee-creation; membership; term of office.
G.S. 143B-417	North Carolina Internship Council-creation; powers and duties.
G.S. 143B-426.22	Governor's Management Council.
G.S. 143B-426.25	(Applicable January 1, 1997) North Carolina Farmworker Council-creation; membership; meetings.
G.S. 143B-437	Investigation of impact of proposed new and expanding industry.
G.S. 146-30	Application of net proceeds.
G.S. 146-8	Disposition of mineral deposits in State lands under water.
G.S. 147-45	Distribution of copies of State publications.
G.S. 150B-1	Policy and scope.
G.S. 158-8.2	Creation of Northeastern North Carolina Regional Economic Development Commission.
G.S. 159I-7	Solid Waste Management Loan Fund.
G.S. 161-22.2	Parcel identifier number indexes.
(b) The phrase "Environment, Health, and Natural Resources" is deleted and replaced by the phrase "Environment and Natural Resources" wherever it occurs in each of the following sections of the General Statutes:	
G.S. 87-98.2	Definitions (S.L. 1997-358)
G.S. 113-168	Definitions (S.L. 1997-400)
G.S. 113-182.1	Fishery Management Plans (S.L. 1997-400)
G.S. 113A-230	Legislative findings (S.L. 1997-226)
G.S. 113A-231	Program to establish conservation purposes (S.L. 1997-226)
G.S. 113A-232	Conservation grant fund (S.L. 1997-226)

G.S. 113A-234	Administration of grants (S.L. 1997-226)
G.S. 113A-235	Conservation easements (S.L. 1997-226)
G.S. 130A-310.8	Recordation of inactive hazardous substances (S.L. 1997-394)
G.S. 130A-301	Recordation of permits for disposal of waste (S.L. 1997-330)
G.S. 130A-310.35	Notice of Brownfields Property (S.L. 1997-357)
G.S. 143-215.85A	Recordation of oil or hazardous waste substance discharge sites (S.L. 1997-394)
G.S. 143-215.104M	Notice of Dry-Cleaning Solvent Remediation (S.L. 1997-392)
G.S. 143B-279.8	Habitat Protection Plans (S.L. 1997-400)
G.S. 143B-289.21	Marine Fisheries Commission (S.L. 1997-400)
G.S. 143B-289.23	Marine Fisheries Commission (S.L. 1997-400)
G.S. 143B-289.40	Division of North Carolina Aquariums (S.L. 1997-286, recodified S.L. 1997-400)
G.S. 143B-289.44	Division of North Carolina Aquariums (S.L. 1997-286, recodified S.L. 1997-400)

Section 11A.120. References in the Session Laws to any department, division, or other agency that is transferred by this Part shall be considered to refer to the successor department, division, or other agency. Every Session Law that refers to any department, division, or other agency to which this Part applies that relates to any power, duty, function, or obligation of any department, division, or agency and that continues in effect after this Part shall be construed so as to be consistent with this Part.

Section 11A.121. The Revisor of Statutes may correct any references or citations in the General Statutes to any portion of the General Statutes that is recodified, transferred, subdivided, or amended by this Part by deleting incorrect references and substituting correct references.

Section 11A.122. The Revisor of Statutes is authorized to delete any reference to the Department of Human Resources, the Secretary of Human Resources, and the Secretary of the Department of Human Resources in any portion of the General Statutes to which conforming amendments are not made by this Part and to substitute, as appropriate and consistent with this Part, the Department of Health and Human Services and the Secretary of Health and Human Services.

Section 11A.123. The Revisor of Statutes is authorized to delete any reference to the Department of Environment, Health, and Natural Resources, the Secretary of Environment, Health, and Natural Resources, and the Secretary of the Department of Environment, Health, and Natural Resources in any portion of the General Statutes to which conforming amendments are not made by this Part and to substitute, as appropriate and consistent with this Part, the Department of Environment and Natural Resources and the Secretary of Environment and Natural Resources.

Section 11A.124. All statutory authority, powers, duties, functions, records, personnel, property, and unexpended balances of appropriations or other funds of any agency which are transferred pursuant to this Part shall be transferred in their entirety.

Section 11A.125. Unless specifically provided to the contrary or unless a contrary intent is clear from the context, any official designation of any agency transferred by this Part as the State agency for any function, including specifically purposes of federal programs, shall be considered to be a designation of the successor agency.

Section 11A.126. No later than 30 days after the effective date of this Part, the Department of Health and Human Services and the Department of Environment and Natural Resources shall enter into a Memorandum of Agreement that provides for coordination between the departments as to any functions shared by the departments as a result of the passage of this Part. This Memorandum shall require that the Department of Environment and Natural Resources provide staff to the Commission for Health Services for the Commission's duties under Articles 8, 9, 10, 11, and 12 of Chapter 130A of the General Statutes. Until a Memorandum of Agreement has been entered into by the departments, the Department of Health and Human Services shall provide all clerical and other services required by the Commission for Health Services.

Section 11A.127. Pending the results of the study to be undertaken by the Environmental Review Commission as provided in this Part, on-site wastewater functions, public drinking water programs, and environmental health programs shall remain in the Department of Environment and Natural Resources, the Division of Environmental Health, shall remain intact in the Department of Environment and Natural Resources, and the Department of Environment and Natural Resources shall not consolidate on-site wastewater functions or drinking water programs in the Division of Water Quality.

Section 11A.128. The Environmental Review Commission shall study the following issues and report its findings to the 1997 General Assembly, Regular Session 1998, along with any legislation it proposes to address these issues:

- (1) The appropriate roles and financing of local and state agencies in reviewing, permitting, inspecting, and monitoring private wells, community wells, municipal wells, and municipal surface water supplies;
- (2) The appropriate roles and financing of local and State agencies in reviewing, permitting, inspecting, monitoring, and maintaining septic tanks, package wastewater treatment plants, municipal wastewater treatment plants, industrial treatment plants, and animal waste operations;
- (3) The appropriate roles and financing of local and State agencies in administering the various environmental health programs;
- (4) The integration of State's review of the financial integrity of applicants for drinking water and wastewater discharge permits;
- (5) Policies to monitor the quality and prevent and reduce pollution of groundwaters;
- (6) Consistent State policies for cleaning up contaminated groundwater and soils;
- (7) Coordination of adoption and development of policies by the Coastal Resources Commission, Environmental Management Commission, Commission on Health Services, Marine Fisheries

Commission, and other commissions having roles in water quality or wastewater issues;

- (8) Policies to monitor the quality and prevent and reduce pollution of surface waters;
- (9) Organization of the State's water planning agencies;
- (10) Technical and financial assistance to business, industry, local governments, and citizens;
- (11) Policies to encourage water conservation;
- (12) Policies to encourage regional water supply and wastewater treatment planning; and
- (13) The role of the North Carolina Cooperative Extension Services, North Carolina Department of Agriculture, and the North Carolina Department of Transportation in the protection of water supplies.

Section 11A.129. The Secretary of Health and Human Services may reorganize the Department of Health and Human Services in accordance with G.S. 143B-10 and shall report as required by that section. In addition, the Department of Health and Human Services shall do the following:

- (1) Report to the Joint Legislative Commission on Governmental Operations by December 31, 1997, on the Department's progress in incorporating health functions and agencies into the Department;
- (2) Report to the General Assembly by May 1, 1998, on additional changes, including proposed legislation necessary to effectuate the purposes of this Part including the findings of the Environmental Review Commission's study.
- (3) Report to the Joint Legislative Commission on Governmental Operations by October 31, 1998, on any proposed changes in the Department's structure of boards and commissions not already implemented as a result of the Environmental Review Commission's study or necessary to effectuate the purposes of this Part and to deliver services more efficiently;
- (4) Report to the General Assembly by February 1, 1999, on the Department's progress in adopting any rule changes necessary to effectuate the purposes of this Part and any proposed legislation necessary to change the structure of any boards and commissions as reported to the Joint Legislative Commission on Governmental Operations.

SUBPART 3. CHANGE THE TERM "AMBULANCE ATTENDANT" TO "MEDICAL RESPONDER" AND CHANGE THE STATUTES RELATING TO MEDICAL RESPONDERS.

Section 11A.129A. G.S. 14-34.6 reads as rewritten:

"§ 14-34.6. *Assault or affray on an emergency medical technician, ~~ambulance attendant,~~ medical responder, emergency department nurse, or emergency department physician.*

(a) A person is guilty of a Class A1 misdemeanor if the person commits an assault or an affray on an emergency medical technician, ~~ambulance attendant,~~ medical responder, emergency department nurse, or emergency

department physician while the technician, attendant, nurse, or physician is discharging or attempting to discharge official duties.

(b) Unless a person's conduct is covered under some other provision of law providing greater punishment, a person is guilty of a Class I felony if the person violates subsection (a) of this section and (i) inflicts bodily injury or (ii) uses a deadly weapon other than a firearm.

(c) Unless a person's conduct is covered under some other provision of law providing greater punishment, a person is guilty of a Class F felony if the person violates subsection (a) of this section and uses a firearm."

Section 11A.129B. G.S. 14-276.1 reads as rewritten:

"§ 14-276.1. *Impersonation of firemen or emergency medical services personnel.*

It is a Class 3 misdemeanor, for any person, with intent to deceive, to impersonate a fireman or any emergency medical services personnel, whether paid or voluntary, by a false statement, display of insignia, emblem, or other identification on his person or property, or any other act, which indicates a false status of affiliation, membership, or level of training or proficiency, if:

- (1) The impersonation is made with intent to impede the performance of the duties of a fireman or any emergency medical services personnel, or
- (2) Any person reasonably relies on the impersonation and as a result suffers injury to person or property.

For purposes of this section, emergency medical services personnel means ~~an ambulance attendant, a medical responder,~~ emergency medical technician, emergency medical technician intermediates, emergency medical technician paramedics, or other member of a rescue squad or other emergency medical organization."

Section 11A.129C. G.S. 131E-255 reads as rewritten:

"§ 131E-155. *Definitions.*

As used in this Article, unless otherwise specified:

- (1) 'Ambulance' means any privately or publicly owned motor vehicle, aircraft, or vessel that is specially designed, constructed, or modified and equipped and is intended to be used for and is maintained or operated for the transportation on the streets or highways, waterways or airways of this State of persons who are sick, injured, wounded, or otherwise incapacitated or helpless.
- (2) ~~"Ambulance attendant" means an individual who has completed a training program in emergency medical care and first aid approved by the Department and has been certified as an ambulance attendant by the Department.~~
- (3) 'Ambulance provider' means an individual, firm, corporation or association who engages or professes to engage in the business or service of transporting patients in an ambulance.
- (4) 'Commission' means the North Carolina Medical Care Commission.
- (5) 'Emergency medical technician' means an individual who has completed ~~a training~~ an educational program in emergency medical care ~~at least equal to the National Standard Training~~

~~Program for emergency medical technicians as defined by the United States Department of Transportation approved by the Department and has been certified as an emergency medical technician by the Department.~~

- (5a) 'Medical responder' means an individual who has completed an educational program in emergency medical care and first aid approved by the Department and has been certified as a medical responder by the Department.
- (6) 'Patient' means an individual who is sick, injured, wounded, or otherwise incapacitated or helpless such that the need for some medical assistance might be anticipated while being transported to or from a medical facility.
- (7) 'Practical examination' means a test where an applicant for certification or recertification as an emergency medical technician or ~~ambulance attendant~~ medical responder demonstrates the ability to perform specified emergency medical care skills."

Section 11A.129D. G.S. 131E-158(a) reads as rewritten:

"(a) Every ambulance when transporting a patient shall be occupied at a minimum by the following:

- (1) At least one emergency medical technician who shall be responsible for the medical aspects of the mission prior to arrival at the medical facility, assuming no other individual of higher certification or license is available; and
- (2) One ~~ambulance attendant~~ medical responder who is responsible for the operation of the vehicle and rendering assistance to the emergency medical technician.

An ambulance owned and operated by a licensed health care facility that is used solely to transport sick or infirm patients with known nonemergency medical conditions between facilities or between a residence and a facility for scheduled medical appointments is exempt from the requirements of this subsection."

Section 11A.129E. G.S. 131E-159 reads as rewritten:

"§ 131E-159. *Requirements for certification.*

(a) An individual seeking certification as an emergency medical technician or ~~ambulance attendant~~ medical responder shall apply to the Department using forms prescribed by that agency. The Department's representatives shall examine the applicant for emergency medical technician by written and practical examination and the applicant for ~~ambulance attendant~~ medical responder by written ~~(or oral if requested)~~ and practical examination. The Department shall issue a certificate to the applicant who meets all the requirements set forth in this Article and the rules adopted for this Article and who successfully completes the examinations required for certification. Emergency medical technician and ~~ambulance attendant~~ medical responder certificates shall be valid for a period not to exceed four years and may be renewed after reexamination if the holder meets the requirements set forth in the rules of the Commission. The Department is authorized to revoke or suspend a certificate at any time it determines that the holder no longer meets the qualifications prescribed for emergency medical technicians or for ~~ambulance attendants~~, medical responders.

(b) The Commission shall adopt rules setting forth the qualifications required for certification of ~~ambulance attendants~~ medical responders and emergency medical technicians.

(b1) An individual currently certified as an emergency medical technician by the National Registry of Emergency Medical Technicians or by another state where the ~~training/certification~~ education/certification requirements have been approved for ~~reciprocity~~ legal recognition by the Department of ~~Human Resources, Health and Human Services~~, in accordance with rules promulgated by the Medical Care Commission, and who is either currently residing in North Carolina or affiliated with a permitted ambulance provider offering service within North Carolina, may be eligible for certification as an emergency medical technician without examination. This certification shall be valid for a period not to exceed the length of the applicant's original certification or four years, whichever is less.

(c) Duly authorized representatives of the Department may issue temporary certificates with or without examination upon finding that this action will be in the public interest. Temporary certificates shall be valid for a period not exceeding 90 days."

Section 11A.129F. G.S. 131E-161 reads as rewritten:

"§ 131E-161. *Violation declared misdemeanor.*

It shall be the responsibility of the ambulance provider to ensure that the ambulance operation complies with the provisions of this Article and all rules adopted for this Article. Upon the violation of any part of this Article or any rule adopted under authority of this Article, the Department shall have the power to revoke or suspend the permits of all vehicles owned or operated by the violator. The operation of an ambulance without a valid permit or after a permit has been suspended or revoked or without an emergency medical technician and ~~ambulance attendant~~ medical responder aboard as required by G.S. 131E-158, shall constitute a Class I misdemeanor."

Section 11A.130. This Part becomes effective when this act becomes law; provided, however, that for purposes of budget and financial records, this section becomes effective July 1, 1997. The Departments by agreement and at the direction of the Office of State Budget and Management shall undertake certification, revisions, and transfer of budget funds and financial records so that State fiscal year financial records, reports, and accounting are maintained as if this Part had become effective July 1, 1997.

PART XII. WELFARE REFORM INITIATIVES AND CONFORMING CHANGES

Requested by: Representatives Berry, Howard, Cansler, Morgan, Senators Martin of Guilford, Cooper, Forrester, Winner
SUBPART A. WELFARE REFORM INITIATIVES.

Section 12.1. The title of Part 2 of Article 2 of Chapter 108A of the General Statutes reads as rewritten:

"Part 2. ~~Aid to Families with Dependent Children.~~ Work First Program."

Section 12.2. G.S. 108A-24 reads as rewritten:

"§ 108A-24. Definitions.

As used in Chapter 108A:

- (1) 'Applicant' is any person who requests assistance or on whose behalf assistance is requested.
- (1a) 'Biometric' means a digitized image of selected features of an individual encoded and processed in a manner that ensures an extraordinarily high correlation between the digital data and the actual characteristics of an individual.
- (1b) 'Community service' means work exchanged for temporary public assistance.
- (1c) 'County block grant' means federal and State money appropriated to implement and maintain a county's Work First Program.
- (1d) 'County department of social services' means a county department of social services, consolidated human services agency, or other local agency designated to administer services pursuant to this Article.
- (1e) 'County Plan' is the biennial Work First Program plan prepared by each county pursuant to this Article and submitted to the Department for incorporation into the State Plan.
- (2) 'Department' is the Department of Human Resources, unless the context clearly indicates otherwise.
- (3) ~~'Dependent child' is a person under 18 years of age who is living with a natural parent, adoptive parent, stepparent, or any other person related by blood, marriage, or legal adoption, in a place of residence maintained by one or more of such persons as his or their own home, and who is deprived of parental support or care; it shall also include a minor who has been eligible for AFDC who is now living in a foster care facility or child-caring institution; it shall also include a dependent child in school under 21 years of age as provided by Titles IV-A and XIX of the Social Security Act, or, in the medical assistance program, a person under 19 years of age.~~
- (3a) 'Electing County' means a county that elects to develop and is approved to administer a local Work First Program.
- (3b) 'Employment' means work that requires either a contribution to FICA or the filing of a State N.C. Form D-400, or the equivalent.
- (3c) 'Family' means a unit consisting of a minor child or children and one or more of their biological parents, adoptive parents, stepparents, or grandparents living together.
- (3d) 'Federal TANF funds' means the Temporary Assistance for Needy Families block grant funds provided for in Title IV-A of the Social Security Act.
- (3e) 'FICA' means the taxes imposed by the Federal Insurance Contribution Act, 26 U.S.C. § 3101, et seq.
- (3f) 'First Stop Employment Assistance' is the program established to assist recipients of Work First Program assistance with employment through job registration, job search, job preparedness, and community service.

- (3g) 'Full-time employment' means employment which requires the employee to work a regular schedule of hours per day and days per week established as the standard full-time workweek by the employer, but not less than an average of 30 hours per week.
- (4) Repealed by Session Laws 1983, c. 14, s. 3.
- (4a) 'Mutual Responsibility Agreement' ('MRA') is an agreement between a county and a recipient of Work First Program assistance which describes the conditions for eligibility for the assistance and what the county will provide to assist the recipient in moving from assistance to self-sufficiency. A MRA may provide for recipient parental responsibilities and child development goals and what a county or the State will provide to assist the recipient in achieving those child development goals. Improvement in literacy shall be a part of any MRA, but a recipient shall not be penalized if unable to achieve improvement. A MRA is a prerequisite for any Work First Program assistance under this Article.
- (4b) 'Parent' means biological parent or adoptive parent.
- (5) 'Recipient' is a person to whom, or on whose behalf, assistance is granted under this Article.
- (6) 'Resident,' unless otherwise defined by federal regulation, is a person who is living in North Carolina at the time of application with the intent to remain permanently or for an indefinite period; or who is a person who enters North Carolina seeking employment or with a job commitment.
- (7) 'Secretary' is the Secretary of Human Resources, unless the context clearly indicates otherwise.
- (8) 'Standard Program County' means a county that participates in the Standard Work First Program.
- (9) 'Standard Work First Program' means the Work First Program developed by the Department.
- (10) 'State Plan' is the biennial Work First Program plan, based upon the aggregate of the Electing County Plans and the Standard Work First Program, prepared by the Department for the State's Work First Program pursuant to this Article, and submitted sequentially to the Budget Director, to the General Assembly, to the Governor, and to the appropriate federal officials for approval.
- (11) 'Temporary' is a time period, not to exceed 60 cumulative months, which meets the federal requirement of Title IV-A.
- (12) 'Title IV-A' means the Social Security Act, 42 U.S.C. § 601, et seq., as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193, and to other provisions of federal law as may apply to assistance provided in this Article.
- (13) 'Work' is lawful activity exchanged for cash, goods, uses, or services.

- (14) 'Work First Diversion Assistance' is a short-term cash payment that is intended to substantially reduce the likelihood of a family requiring Work First Family Assistance.
- (15) 'Work First Family Assistance' is a program of time-limited periodic payments to assist in maintaining the children of eligible families while the adult family members engage in activities to prepare for entering and to enter the workplace.
- (16) 'Work First Program' is the Temporary Assistance for Needy Families program established in this Article.
- (17) 'Work First Program assistance' means the goods or services provided under the Work First Program.
- (18) 'Work First Services' are services funded from appropriations made pursuant to this Article and designed to facilitate the purposes of the Work First Program."

Section 12.3. G.S. 108A-25 reads as rewritten:

"§ 108A-25. *Creation of programs.*

(a) The following programs of public assistance are ~~hereby~~ established, and shall be administered by the county department of social services or the Department of Human Resources under federal regulations or under rules ~~and regulations~~ adopted by the Social Services Commission and under the supervision of the Department of Human Resources:

- (1) ~~Aid to families with dependent children;~~
- (2) State-county special assistance for adults;
- (3) Food stamp program;
- (4) Foster care and adoption assistance payments;
- (5) Low income energy assistance program.

(b) The program of medical assistance is ~~hereby~~ established as a program of public assistance and shall be administered by the county departments of social services under rules ~~and regulations~~ adopted by the Department of Human Resources.

(b1) The Work First Program is established as a program of public assistance and shall be supervised and administered as provided in Part 2 of this Article.

(c) ~~The Department of Human Resources is hereby authorized to may~~ accept all grants-in-aid for programs of public assistance which may be available to the State by the federal government. The provisions of this Article shall be liberally construed in order that the State and its citizens may benefit fully from such the federal grants-in-aid."

Section 12.4. Part 1 of Article 2 of Chapter 108A of the General Statutes is amended by adding the following new sections to read:

"§ 108A-25.1. *Recipient identification system.*

(a) The Department shall establish and maintain a uniform system in the Department and in all counties of identifying all Work First, food stamp, and medical assistance program recipients. This system shall provide security and portability throughout the State and between the departments within the State involved in means-tested public assistance programs and shall have the capability of identifying recipients of assistance from all means-tested programs administered or funded through the Department.

(b) The identification system established in this section shall use multiple biometrics to ensure greater than ninety-nine percent (99%) accuracy for interdepartmental identification.

(c) The Department shall ensure that the biometric identification system will be compatible with any existing departmental biometric identification system.

"§ 108A-25.2. Exemption from limitations for individuals convicted of certain drug-related felonies.

Individuals convicted of Class H or I controlled substance felony offenses in this State shall be eligible to participate in the Work First Program and food stamp program:

- (1) Six months after release from custody if no additional controlled substance felony offense is committed during that period and successful completion of or continuous active participation in a required substance abuse treatment program determined appropriate by the area mental health authority; or
- (2) If not committed to custody, six months after the date of conviction if no additional controlled substance felony offense is committed during that period and successful completion of or continuous active participation in a required substance abuse treatment program determined appropriate by the area mental health authority.

A county department of social services shall require individuals who are eligible for Work First Program assistance and food stamp benefits pursuant to this section to undergo substance abuse treatment as a condition for receiving Work First Program or food stamp benefits, if funds and programs are available and to the extent allowed by federal law."

Section 12.5. G.S. 108A-27 reads as rewritten:

"§ 108A-27. ~~Authorization of Aid to Families with Dependent Children Program. Authorization and description of Work First Program; Work First Program changes; designation of Electing and Standard Program Counties.~~

(a) ~~The Department is authorized to shall establish and establish, supervise an Aid to Families with Dependent Children supervise, and monitor the Work First Program. The purpose of the Work First Program is to provide eligible families with short-term assistance to facilitate their movement to self-sufficiency through employment. This program is to be administered by county departments of social services under federal regulations and rules and regulations of the Social Services Commission.~~

(b) ~~The Work First Program in all counties shall include program administration, First Stop Employment Registration, and three categories of assistance to participants:~~

- (1) ~~Work First Diversion Assistance;~~
- (2) ~~Work First Family Assistance; and~~
- (3) ~~Work First Services.~~

All counties shall utilize the registration process of the First Stop Employment Assistance Program. All other provisions of the First Stop Employment Assistance Program shall be optional to the counties.

(c) ~~The Department may change the Work First Program when required to comply with federal law. Any changes in federal law that necessitate a~~

change in the Work First Program shall be effected by temporary rule until the next State Plan is approved by the General Assembly. Any change effected by the Department to comply with federal law shall be reported to the Joint Legislative Public Assistance Commission and included in the State Plan submitted during the next session of the General Assembly following the change.

(d) The Department shall allow counties maximum flexibility in the Work First Program while ensuring that the counties comply with federal and State laws and regulations. Subject to any limitations imposed by law, the Department shall allow counties to request to be designated as either Electing Counties or Standard Program Counties in the Work First Program.

(e) All counties shall notify the Department in writing as to whether they desire to be designated as either Electing or Standard Program. A county shall submit in its notification to the Department documentation demonstrating that three-fifths of its county commissioners support its desired designation. Upon receipt of the notification from the county, the Department shall send to the county confirmation of the county's planning designation. A county that desires to be redesignated shall submit a request in writing to the Department at least six months prior to the effective date of the next State Plan. In its request for redesignation, the county shall submit documentation demonstrating that three-fifths of its county commissioners support the redesignation. Upon receipt of the notification from the county, the Department shall send to the county confirmation of the county's planning redesignation. A county's redesignation shall become effective on the effective date of the next State Plan following the redesignation. A county's designation or redesignation shall not be effected except as provided in this Article.

(f) The board of county commissioners in an Electing County shall be responsible for development, administration, and implementation of the Work First Program in that county.

(g) The county department of social services in a Standard Program County shall be responsible for administering and implementing the Standard Work First Program in that county.

(h) The Department and Electing Counties, in developing an Electing County Work First Program or the Standard Work First Program, may distinguish among potential groups of recipients on whatever basis necessary to enhance program purposes and to maximize federal revenues, so long as the rights, including the constitutional rights of equal protection and due process, of individuals are protected. The Department and Electing Counties may provide Work First Program assistance to legal immigrants on the same basis as citizens to the extent permitted by federal law."

Section 12.6. Part 2 of Article 2 of Chapter 108A of the General Statutes is amended by adding the following new sections:

"§ 108A-27.1. Time limitations on assistance.

(a) Under the Standard Work First Program, unless an extension or an exemption is provided pursuant to the provisions of this Part or the State Plan, any cash assistance provided to a person or family in the employment program shall only be provided for a cumulative total of 24 months. After

having received cash assistance for 24 months, the person or the family may reapply for cash assistance, but not until after 36 months from the last month the person or the family received cash assistance. This subsection shall not apply to child-only cases.

(b) Electing Counties may set any time limitations on assistance it finds appropriate, so long as the time limitations do not conflict or exceed any federal time limitations.

"§ 108A-27.2. General duties of the Department.

The Department shall have the following general duties with respect to the Work First Program:

- (1) Provide technical assistance to counties developing and implementing their County Plans, including providing information concerning applicable federal law and regulations and changes to federal law and regulations that affect the permissible use of federal funds and scope of the Work First Program in a county;
- (2) Describe authorized federal and State work activities;
- (3) Define requirements for assignment of child support income and compliance with child support activities;
- (4) Establish a schedule for counties to submit their County Plans to ensure that all Standard County Plans are adopted by the Standard Program Counties by January 15 of each even-numbered year and all Electing County Plans are adopted by Electing Counties by February 1 of each even-numbered year and review and then recommend a State Plan to the General Assembly;
- (5) Ensure that the County Plans comply with federal and State laws, rules, and regulations, are consistent with the overall purposes and goals of the Work First Program, and maximize federal receipts for the Work First Program;
- (6) Prepare the State Plan in accordance with G.S. 108A-27.9 and federal laws and regulations and submit it to the Budget Director for approval;
- (7) Submit the State Plan, as approved by the Budget Director, to the General Assembly for approval;
- (8) Report monthly to the Joint Legislative Public Assistance Commission on the monthly progress reports submitted by the counties to the Department;
- (9) Develop and implement a system to monitor and evaluate the impact of the Work First Program on children and families, including the impact of the Work First Program on the economic security and health of children and families, child abuse and neglect, caseloads for child protective services and foster care, school attendance, and academic and behavioral performance. State and county agencies shall cooperate in providing information needed to conduct these evaluations, sharing data and information except where prohibited specifically by federal law or regulation;
- (10) Monitor the performance of counties relative to their County Plans and the overall goals of the Work First Program and report

every six months to the Director of the Budget and the Joint Legislative Public Assistance Commission and annually to the General Assembly on the counties' attainment of the outcomes and goals;

- (11) Provide quarterly progress reports to the county departments of social services, the county boards of commissioners, and the Joint Legislative Public Assistance Commission on the performance of counties in achieving Work First Program expectations;
- (12) Report to the Joint Legislative Public Assistance Commission and the House and Senate Appropriations Subcommittees on Human Resources the counties which have requested Electing status, provide copies of the proposed Electing County Plans to the Joint Legislative Public Assistance Commission and the House and Senate Appropriations Subcommittees on Human Resources, and make recommendations to the Joint Legislative Public Assistance Commission, the chairs of the House and Senate Subcommittees on Human Resources, and the General Assembly on which of the proposed Electing County Plans ensure compliance with federal and State laws, rules, and regulations and are consistent with the overall purposes and goals for the Work First Program; and
- (13) Make recommendations to the General Assembly for approval of counties to become Electing Counties which represent, in aggregate, no more than fifteen and one-half percent (15.5%) of the total Work First caseload at October 1 of each year and, for each county submitting a plan, the reasons individual counties were or were not recommended.

"§ 108A-27.3. Electing Counties -- Duties of county boards of commissioners.

(a) The duties of the county boards of commissioners in Electing Counties under the Work First Program are as follows:

- (1) Establish county outcome and performance goals based on county economic, educational, and employment factors and adopt criteria for determining the progress of the county in moving persons and families to self-sufficiency;
- (2) Establish eligibility criteria for recipients;
- (3) Prescribe the method of calculating benefits for recipients;
- (4) Determine and list persons and families eligible for the Work First Program;
- (5) If made a part of the county's Work First Program, develop and enter into Mutual Responsibility Agreements with Work First Program recipients and ensure that the services and resources that are needed to assist participants to comply with the obligations under their Mutual Responsibility Agreements are available;
- (6) Ensure that participants engage in the minimum hours of work activities required by Title IV-A;
- (7) Provide community service work for any recipient who cannot find employment;
- (8) Make payments of Work First Diversion Assistance and Work First Family Assistance to recipients having MRAs;

- (9) Monitor compliance with Mutual Responsibility Agreements and enforce the agreement provisions;
 - (10) Monitor and evaluate the impact of the Work First Program on children and families, including the impact of the Program on the economic security and health of children and families, child abuse and neglect, caseloads for child protective services and foster care, school attendance, and academic and behavioral performance, and report the findings to the Department quarterly;
 - (11) Ensure compliance with applicable State and federal laws, rules, and regulations for the Work First Program;
 - (12) Develop, adopt, and submit to the Department a biennial County Plan;
 - (13) Provide monthly progress reports to the Department in a format to be determined by the Department;
 - (14) Develop and implement an appeals process for the county's Work First Program that substantially complies with G.S. 108A-79.
- (b) The county board of commissioners shall not delegate the responsibilities described in subdivisions (a)(1), (a)(11), and (a)(12) of this section but may delegate other duties to public or private entities. Notwithstanding any delegation of duty, the county board of commissioners shall remain accountable for its duties under the Work First Program.
- (c) The county board of commissioners shall appoint a committee of individuals to identify the needs of the population to be served and to review and assist in developing the County Plan to respond to the needs. The committee membership shall include, but is not limited to, representatives of the county board of social services, the board of the area mental health authority, the local public health board, the local school systems, the business community, the board of county commissioners and community-based organizations representative of the population to be served.
- (d) The county board of commissioners shall review and approve the County Plan for submission to the Department.
- "§ 108A-27.4. Electing Counties -- County Plan.
- (a) Each Electing County shall submit to the Department, according to the schedule established by the Department and in compliance with all federal and State laws, rules, and regulations, a biennial County Plan.
- (b) An Electing County's County Plan shall have at least the following five parts:
- (1) Part I. Conditions Within the County;
 - (2) Part II. Outcomes and Goals for the County;
 - (3) Part III. Plans to Achieve and Measure the Outcomes and Goals;
 - (4) Part IV. Administration; and
 - (5) Part V. Funding Requirements.
- (c) Funding requirements shall, at least, identify the amount of a county block grant for Work First Diversion Assistance, a county block grant for Work First Family Assistance, a county block grant for Work First Services, and the county's maintenance of effort contribution. A county may establish a reserve.

(d) The County Plans in Electing Counties may provide that in cases where benefits are paid only for a child, the case is considered a family case.

(e) Each county shall include in its County Plan the following:

- (1) The number of MRAs entered into by the county;
- (2) A description of the county's plans for serving families who need child care, transportation, substance abuse services, and employment support based on the needs of the community and the availability of services and funding;
- (3) A list of the community service programs equivalent to full-time employment that are being offered to Work First Program recipients who are unable to find full-time employment;
- (4) A description of the county's eligibility criteria, benefit calculation, and any other policies adopted by the county relating to eligibility, terms, and conditions for receiving Work First Program assistance, including sanctions, asset and income requirements, time limits and extensions, rewards, exemptions, and exceptions to requirements. If an Electing County Plan proposes to change eligibility requirements, benefits levels, or reduce maintenance of effort, the county shall describe the reasons for these changes and how the county intends to utilize the maintenance of effort savings;
- (5) A description of how the county plans to utilize public and private resources to assist in moving persons and families to self-sufficiency; and
- (6) Any request to the Department for waivers to rules or any proposals for statutory changes to remove any impediments to implementation of the County's Plan.

(f) Each county shall provide to the general public an opportunity to review and comment upon its County Plan prior to its submission to the Department.

(g) A county may modify its County Plan once each biennium but not at any other time unless the county notifies the Department of the proposed modification and the Department determines that the proposed modification is consistent with State and federal law and the goals for the Work First Program.

"§ 108A-27.5. Electing Counties -- Duties of the Department.

In addition to the general duties prescribed in G.S. 108A-27.3, the Department shall have the following duties with respect to establishing, supervising, and monitoring the Work First Program in Electing Counties while allowing Electing Counties maximum flexibility in designing and implementing County Plans:

- (1) Coordinate activities of other State agencies providing technical support to counties developing their County Plans;
- (2) At the request of the counties, provide assistance to counties in their activities with private sector individuals and organizations relative to County Plans; and
- (3) Establish the baseline for the State maintenance of effort.

"§ 108A-27.6. Standard Program Counties -- Duties of county departments of social services and county boards of commissioners.

(a) Except as otherwise provided in this Article, the Standard Work First Program shall be administered by the county departments of social services. The county departments of social services in Standard Program Counties shall:

- (1) In consultation with the Department and the county board of commissioners, establish outcome and performance goals for each Standard Program County, based on economic factors and conditions in that county, aimed at reducing child poverty by means of goals that measure the increased numbers of persons employed, the increased numbers of hours worked by and wages earned by recipients, and other measures of child well-being;
- (2) Determine eligibility of persons and families for the Work First Program;
- (3) Enter into Mutual Responsibility Agreements with participants if required under the State Plan and ensure that the services and resources that are needed to assist participants to comply with their obligations under their Mutual Responsibility Agreements are available;
- (4) Comply with State and federal law relating to Work First and Title IV-A;
- (5) Develop the County Plans for submission by the counties to the Department;
- (6) Ensure that participants engage in the minimum hours of work activities required by the State Plan and Title IV-A;
- (7) Ensure that the components of the Work First Program are funded solely from authorized sources and that federal TANF funds are used only for purposes and programs authorized by federal and State law;
- (8) Monitor and evaluate the impact of the Work First Program on children and families, including the impact of the Program on the economic security and health of children and families, child abuse and neglect, caseloads for child protective services and foster care, school attendance, and academic and behavioral performance, and report the findings to the Department quarterly; and
- (9) Provide monthly progress reports to the Department, in a format to be determined by the Department.

(b) In consultation with the Department, a county department of social services may delegate any of its duties under this Article to another public agency or private contractor. Prior to delegating any duty, a county department of social services shall submit its proposed delegation to the Department as the Department may provide. Notwithstanding any delegation of duty, a county department of social services shall remain accountable for its duties under the Work First Program.

(c) The county board of commissioners shall appoint a committee of individuals to identify the needs of the population to be served and to review and assist in developing the County Plan to respond to the needs. The

committee membership shall include, but is not limited to, representatives of the county board of social services, the board of the area mental health authority, the local public health board, the local school systems, the business community, the board of county commissioners, and community-based organizations representative of the population to be served.

(d) The county board of commissioners shall review and approve the County Plan for submission to the Department.

"§ 108A-27.7. Standard Program County Plan.

(a) Each Standard Program County shall submit to the Department for approval a biennial County Plan that describes the Work First Diversion Assistance and Work First Services the county proposes to offer.

(b) Prior to submitting its County Plan to the Department, a county shall provide the public with an opportunity to review and comment upon it.

(c) The County Plan of a Standard Program County shall include a description of how the county will:

- (1) Utilize both public and private resources to assist in moving persons and families to self-sufficiency;
- (2) Serve families who need child care, transportation, substance abuse services, and employment support based on the needs of the community and the availability of services and funding; and
- (3) Address the needs of persons and families in any other areas specified by the Department.

"§ 108A-27.8. Standard Program Counties -- Duties of Department.

(a) The Department shall establish, develop, supervise, and monitor the Standard Work First Program. In addition to its general duties prescribed in G.S. 108A-27.2, the Department shall have the following duties with respect to the Standard Work First Program and the Standard Program Counties:

- (1) Establish the requirements for the content of County Plans and review and approve the County Plans submitted by the Standard Program Counties;
- (2) Advise and assist the Social Services Commission in adopting rules necessary to implement the provisions of this Article;
- (3) Supervise disbursement of county block grants to the Standard Program Counties for Work First Services;
- (4) Make payments of Work First Family Assistance and Work First Diversion Assistance;
- (5) Coordinate activities of other State and county agencies in meeting the goals of the Work First Program;
- (6) Work with State and county agencies and with private sector organizations and individuals to develop programs and methods to meet the goals of the Work First Program; and
- (7) Develop a Mutual Responsibility Agreement for use by Standard Program Counties.

(b) The Secretary, in consultation with the Office of State Budget and Management, may adopt temporary rules when necessary to:

- (1) Implement provisions of the State Plan;
- (2) Maximize federal revenues to prevent the loss of federal funds;

- (3) Enhance the ability of the Department to prevent fraud and abuse in the Work First Program; and
- (4) Modify the provisions in the State Plan as necessary to meet changed circumstances after approval of the State Plan.

(c) The Social Services Commission may adopt rules in accordance with G.S. 143B-153 when necessary to implement this Article and subject to delegation by the Secretary of any rule-making authority to implement the provisions of the State Plan.

"§ 108A-27.9. State Plan.

(a) The Department shall prepare and submit to the Director of the Budget, in accordance with the procedures established in G.S. 143-16.1 for federal block grant funds, a biennial State Plan that proposes the goals and requirements for the State and the terms of the Work First Program for each fiscal year. Prior to submitting a State Plan to the General Assembly, the Department shall submit the State Plan to the Joint Legislative Public Assistance Commission for its review and then consult with local governments and private sector organizations regarding the design of the State Plan and allow 45 days to receive comments from them.

(b) The State Plan shall consist of generally applicable provisions and two separate sections, one proposing the terms of the Work First Program in Electing Counties, and the other proposing the terms for the Standard Work First Program.

(c) The State Plan shall include the following generally applicable provisions:

- (1) Provisions to ensure that no Work First Program recipients, required to participate in work activities, shall be employed or assigned when:
 - a. Any regular employee is on layoff from the same or substantially equivalent job;
 - b. An employer terminates any regular employee or otherwise causes an involuntary reduction in the employer's workforce in order to hire Work First recipients; or
 - c. An employer otherwise causes the displacement of any currently employed worker or positions, including partial displacements such as reductions in hours of nonovertime work, wages, or employment benefits, in order to hire Work First recipients;
- (2) Provisions to ensure the establishment and maintenance of grievance procedures to resolve complaints by regular employees who allege that the employment or assignment of a Work First Program recipient is in violation of subdivision (3) of this subsection;
- (3) Provisions to ensure that Work First Program participants, required to participate in work activities, shall be subject to and have the same rights under federal, State, or local laws applicable to non-Work First Program employees in similarly situated work activities, including, but not limited to, wage and hour laws, health and safety standards, and nondiscrimination laws, provided that nothing in this subdivision shall be construed to prohibit

Work First Program participants from receiving additional State or county services designed to assist Work First Program participants achieve job stability and self-sufficiency;

- (4) A description of eligible federal and State work activities;
- (5) Requirements for assignment of child support income and compliance with child support activities;
- (6) Incentives for high-performing counties, contingency plans for counties unable to meet financial commitments during the term of the State Plan, and sanctions against counties failing to meet performance expectations, including allocation of any federal penalties that may be assessed against the State as a result of a county's failure to perform; and
- (7) Anything else required by federal or State law, rule, or regulation to be included in the State Plan.

(d) The section of the State Plan proposing the terms of the Work First Program in Electing Counties shall be based upon the aggregate of the Electing County Plans and shall include the following:

- (1) Allocations of federal and State funds for Electing Counties in the Work First Program including block grants to counties and the allocation of funding for administration not to exceed the federally established limitations on the use of federal TANF funds and the limits imposed under this Article;
- (2) Maintenance of effort and levels of State and county funding for Electing Counties in the Work First Program;
- (3) Federal eligibility requirements and a description of the eligibility requirements and benefit calculation in each Electing County; and
- (4) A description of the federal, State, and each Electing County's financial participation in the Work First Program.

The Department may modify the section in the State Plan regarding Electing Counties once a biennium or except as necessary to reflect any modifications made by an Electing County. Any changes to the section of the State Plan regarding Electing Counties shall be reported to the Joint Legislative Public Assistance Commission at the next meeting of the Commission following the changes and to the General Assembly during the next session following the changes.

(e) The section of State Plan describing the Standard Work First Program shall include:

- (1) Benefit levels, limitations, and payments and the method for calculating benefit levels and payments;
- (2) Eligibility criteria, including asset and income standards;
- (3) Any exceptions or exemptions proposed to work requirements;
- (4) Provisions for when extensions may be granted to a person or family who reaches the time limit for receipt of benefits;
- (5) Provisions for exceptions and exemptions to criteria, time limits, and standards;
- (6) Provisions for sanctions for recipient failure to comply with program requirements;

- (7) Terms and conditions for repayment of Work First Diversion Assistance by recipients who subsequently receive Work First Family Assistance;
 - (8) Allocations of federal, State, and county funds for the Standard Work First Program, including county block grants to the counties for Work First Services;
 - (9) Levels of State and county funding for the Standard Work First Program;
 - (10) Allocation for funding for administration at the State and local level not to exceed the federally established limitations on use of federal TANF funds for program administration; and
 - (11) A description of the Department's consultation with local governments and private sector organizations and a summary of any comments received during the 45-day public comment period.
- (f) In addition to those items required to be included pursuant to subsection (e) of this section, the State Plan may include proposals to establish the following as part of the Standard Work First Program:
- (1) Demonstration projects in one or more counties to assess the value of any proposed changes in State policy or to test ways to improve programs; and
 - (2) Requirement that recipients shall be required to enter into and comply with Mutual Responsibility Agreements as a condition of receiving benefits. If provided for in the State Plan, the terms and conditions of Mutual Responsibility Agreements shall be consistent with program purposes, federal law, and availability of funds.
- (g) The State Plan may provide for automatic Medicaid eligibility for all Work First Program recipients.
- (h) The State Plan may provide that in cases where benefits are paid only for a child, the case is considered a family case.
- "§ 108A-27.10. Duties of the Director of the Budget/Governor.
- (a) The Director of the Budget shall, by May 15 of each even-numbered calendar year, approve and recommend adoption by the General Assembly of the State Plan.
- (b) At the beginning of every fiscal year, the Director of the Budget shall report to the General Assembly the number of permanent State employees who have been Work First Program recipients during the previous calendar year.
- (c) After the State Plan has become law, the Governor shall sign it and cause it to be submitted to federal officials in accordance with federal law.
- "§ 108A-27.11. Work First Program funding.
- (a) County block grants, except funds for Work First Family Assistance, shall be computed based on the percentage of each county's total AFDC (including AFDC-EA) and JOBS expenditures, except expenditures for cash assistance, to statewide actual expenditures for those programs in fiscal year 1995-96. The resulting percentage shall be applied to the State's total budgeted funds, except funds budgeted for Work First Family Assistance, for Work First Program expenditures at the county level.

(b) The following shall apply to funding for Standard Program Counties:

- (1) The Department shall make payments of Work First Family Assistance and Work First Diversion Assistance subject to the availability of federal, State, and county funds.
- (2) The Department shall reimburse counties for county expenditures under the Work First Program subject to the availability of federal, State, and county funds.

(c) Each Electing County's allocation for Work First Family Assistance shall be computed based on the percentage of each Electing County's total expenditures for cash assistance to statewide actual expenditures for cash assistance in 1995-96. The resulting percentage shall be applied to the total budgeted funds for Work First Family Assistance. The Department shall transmit the federal funds contained in the county block grants to Electing Counties as soon as practicable after they become available to the State and in accordance with federal cash management laws and regulations. The Department shall transmit one-fourth of the State funds contained in county block grants to Electing Counties at the beginning of each quarter. Once paid, the county block grant funds shall not revert.

"§ 108A-27.12. Maintenance of effort.

(a) The Department shall define in the State Plan or by rule the term 'maintenance of effort' based on that term as defined in Title IV-A and shall provide to counties a list of activities that qualify for federal maintenance of effort requirements.

(b) If a county fails to comply with the maintenance of effort requirement in subsection (a) of this section, the Director of the Budget may withhold State moneys appropriated to the county pursuant to G.S. 108A-93.

(c) The Department shall maintain the State's maintenance of effort at one hundred percent (100%) of the amount the State budgeted for programs under this Part during fiscal year 1996-97.

(d) For Standard Program Counties, using the preceding fiscal year as the base year, counties shall maintain a financial commitment to the Work First Program equal to the proportion of State funds allocated to the Work First Program. At no time shall a Standard Program County reduce State or county funds previously obligated or appropriated for child welfare services.

(e) During the first year a county operates as an Electing County, the county's maintenance of effort shall be no less than ninety percent (90%) of the amount the county budgeted for programs under this Part during fiscal year 1996-97. If during the first year of operation as Electing the Electing County achieves one hundred percent (100%) of its goals as set forth in its Electing County Plan, then the Electing County may reduce its maintenance of effort to eighty percent (80%) of the amount the county budgeted for programs under this Part during fiscal year 1996-97 for the second year of the Electing County's operation and for all years thereafter that the county maintains Electing status.

"§ 108A-27.13. Performance standards.

(a) The Department, in consultation with the county department of social services and county board of commissioners, shall establish acceptable levels of performance for Standard Program Counties in meeting Work First expectations, measured by outcome and performance goals contained in the

State Plan. The Department shall establish monitoring mechanisms and reporting requirements to assess progress toward the goals. The well-being of children and economic factors and conditions within the counties, including the increased numbers of persons employed and increased numbers of hours worked by and wages earned by recipients, shall be considered by the Department.

(b) Electing County performance shall be judged upon the county's ability to attain the outcomes and goals established in that county's County Plan.

(c) All adult recipients of Work First Program assistance are expected to achieve full-time employment, subject to applicable exceptions. Adult recipients of Work First Program assistance shall comply with the provisions and requirements in their MRAs.

"§ 108A-27.14. Corrective action.

(a) When any county fails to meet acceptable levels of performance, the Department may take one or more of the following actions to assist the county in meeting its Work First goals:

- (1) Notify the county of the deficiencies and add additional monitoring and reporting requirements.
- (2) Require the county to develop and submit for approval by the Department a corrective action plan.

(b) If any Standard Program County fails to meet acceptable levels of performance for two consecutive years, or fails to comply with a corrective action plan developed pursuant to this section, the Department may assume control of the county's Work First Program, appoint an administrator to administer the county's Work First Program, and exercise the powers assumed to administer the Work First Program either directly or through contract with private or public agencies. County funding shall continue at levels established by the State Plan when the State has assumed control of a county Work First Program. At no time after the State has assumed control of a Work First Program shall a county withdraw funds previously obligated or appropriated to the Work First Program.

(c) If an Electing County fails to achieve its Work First Program goals for two consecutive years, or fails to comply with a corrective action plan developed pursuant to this section, and as a result the federal government imposes a penalty upon the State, then the county shall lose its Electing County status.

"§ 108A-27.15. Assistance not an entitlement; appeals.

(a) Any assistance programs established under this Part, whether administered by the Department or the counties, are not entitlements, and nothing in this Part shall create any property right.

(b) The Standard Work First Program is a program of temporary public assistance for the purpose of an appeal under G.S. 108A-79.

"§ 108A-27.16. Use of Work First Reserve Fund.

(a) By the fifteenth of each month, the Secretary shall certify to the Director of the Budget and the Fiscal Research Division of the General Assembly the actual expenditures for Work First Family Assistance for the fiscal year up until the beginning of that month and the projected expenditures for the remainder of the fiscal year. If on March 1 the actual

expenditures for the fiscal year exceed two-thirds of the total amount of expenditures expected for the entire fiscal year, then the Secretary shall attempt to access any available federal funds. If federal funds are unavailable and the General Assembly is not in session, the Director of the Budget may, in the order below:

- (1) Use funds available from the Work First Reserve Fund established pursuant to G.S. 143-15.3C;
- (2) Use funds available to the Department; or
- (3) Notwithstanding G.S. 143-23, use funds available from other departments, institutions, or other spending agencies of the State.

(b) The Director of the Budget shall report to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Public Assistance Commission, and the House of Representatives and Senate Appropriations Subcommittees on Human Resources prior to making any transfer pursuant to this section.

(c) Except as provided in this section, funds from the Work First Reserve Fund established pursuant to G.S. 143-15.3C shall not be expended until appropriated by the General Assembly."

Section 12.7. (a) G.S. 108A-29 reads as rewritten:

"§ 108A-29. ~~Limitations on eligibility.~~ First Stop Employment Assistance; priority for employment services.

(a) ~~The Social Services Commission shall adopt such administrative rules concerning work requirements as conditions of eligibility for Aid to Families with Dependent Children in order to be in compliance with federal regulations, but such rules shall not be more restrictive than the work requirements applicable to the Job Opportunities and Basic Skills Training Program provided for in G.S. 108A-30.~~

(a1) There is established in the Department of Commerce a program to be called First Stop Employment Assistance. The Secretary of the Department of Commerce shall administer the program with the participation and cooperation of the Employment Security Commission, county boards of commissioners, the Department of Health and Human Services, the Department of Labor, the Department of Crime Control and Public Safety, and the community college system. The responsibilities of each agency shall be specified in a Memorandum of Understanding between the Departments of Commerce and Health and Human Services, in consultation with the Employment Security Commission, the Department of Labor, and the community college system. The Employment Security Commission shall be the presumptive primary deliverer of job placement services for the Work First Program.

(a2) Individuals seeking to apply or reapply for Work First Program assistance and who are not exempt from work requirements shall register with the First Stop Employment Assistance Program. The point of registration shall be at an office of the Employment Security Commission in the county in which the individual resides or at another location designated in a Memorandum of Understanding between the Employment Security Commission and the local department of social services.

(a3) Individuals who are not otherwise exempt shall present verification of registration at the time of applying for Work First Program assistance.

Unless exempt, the individual shall not be approved for Work First Program assistance until verification is received. Child-only cases are exempt from this requirement.

(a4) The Employment Security Commission shall expand its Labor Market Information System. The expansion shall at least include: statistical information on unemployment rates and other labor trends by county; and publications dealing with licensing requirements, economic development, and career projections, and information technology systems which can be used to track participants through the employment and training process.

(a5) The Employment Security Commission shall be the primary job placement entity of the Work First Program. The Employment Security Commission shall assist registrants through job search, job placement, or referral to community service.

(a6) At the county's option, the Employment Security Commission, in consultation with and with the assistance of the agencies specified in the Memorandum of Understanding described in subsection (a2) of this section, shall provide to Work First Program registrants the continuum of services available through its Employment Services division. Each County Plan may provide that the county department of social services enter into a cooperative agreement with the Employment Security Commission for job registration, job search, and job placement on behalf of Work First Program registrants. The cooperative agreement shall include a provision for payment to the Employment Security Commission by the county department of social services for the cost of providing the services described in this subsection as the same are reflected as a component of the County Plan payable from fund allocations in the county block grant.

(a7) If after evaluation of an individual the Employment Security Commission believes it necessary, the Employment Security Commission also may refer an individual placed in the Job Preparedness component of the First Stop Employment Program to a local community college for enrollment in General Education Development, Adult Basic Education, or Human Resources Development programs which are already in existence. Additionally, the Commission may refer an individual to a literacy council. Through a Memorandum of Understanding between the Employment Security Commission and the local department of social services, a system shall be established to monitor an individual's progress through close communications with the agencies assisting the individual. The Employment Security Commission shall adopt rules to accomplish this subsection.

(a8) The Job Preparedness component of the Program shall last a maximum of 12 weeks unless the recipient is registered and is satisfactorily progressing in a program that requires additional time to complete. Every reasonable effort shall be made to place the recipient in part-time employment or part-time community service if the time required exceeds the 12-week maximum. The Employment Security Commission may contract with service providers to provide the services described in this section and shall monitor the provision of the services by the service providers.

(a9) An individual placed in the Job Search component of the First Stop Employment Program shall look for work and shall accept any suitable employment. The Employment Security Commission shall refer individuals

to current job openings and shall make job development contacts for individuals. Individuals shall be required to keep a record of their job search activities on a job search record form provided by the Commission, and the Employment Security Commission will monitor these activities. A 'job search record' means a written list of dates, times, places, addresses, telephone numbers, names, and circumstances of job interviews. The Job Search component shall include at least one weekly contact with the Employment Security Commission. The Employment Security Commission shall adopt rules to accomplish this subsection.

(a10) The Employment Security Commission shall work with the Department of Labor to develop a relationship with these private employment agencies to utilize their services and make referrals of individuals registered with the Employment Security Commission.

(a11) The Employment Security Commission shall notify all employers in the State of the 'Exclusive No-Fault' Referral Service available through the Employment Security Commission to employers who hire personnel through Job Service referrals.

(a12) All individuals referred to jobs through the Employment Security Commission shall be instructed in the procedures for applying for the Federal Earned Income Credit (FEIC). All individuals referred to jobs through the Employment Security Commission who qualify for the FEIC shall apply for the FEIC by filing a W-5 form with their employers.

(a13) The FEIC shall not be counted as income when eligibility is determined for Work First Program assistance, Medicaid, food stamps, subsidies, public housing, or Supplemental Security Income.

(a14) An individual who has not found a job within 12 weeks of being placed in the Job Search component of the Program may also be placed in the Community Service component at the county's option.

(a15) Once an individual has registered as required in subsection (a2) of this section and upon verification of the registration by the agency or contractor providing the Work First Program assistance, the individual's eligibility for Work First Program assistance may be evaluated and the application completed. Continued receipt of Work First Program benefits is contingent upon successful participation in the First Stop Employment Program, and lack of cooperation and participation in the First Stop Employment Program may result in the termination of benefits to the individual.

(a16) The county board of commissioners shall determine which agencies or nonprofit or private contractors will participate with the Employment Security Commission and the local department of social services in developing the rules to implement the First Stop Employment Program.

(a17) Each county shall organize a Job Service Employer Committee, based on the membership makeup of the Job Service Employer Committees in existence at the time this act becomes law. Each Job Service Employer Committee in counties participating in the First Stop Employment Program shall oversee the operation of the Program in that county and shall report to the local Employment Security Commission quarterly on its recommendations to improve the First Stop Employment Program. The Employment Security Commission shall develop the reporting method and

time frame and shall coordinate a full report to be presented to the Joint Legislative Public Assistance Commission by the end of each calendar year. Counties having a Workforce Development Board may designate the Board to perform the duties described in this section rather than organizing a Job Service Employer Committee.

(b) Members of families with dependent children and with aggregate family income at or below the level required for eligibility for ~~Aid to Families with Dependent Children assistance~~, Work First Family Assistance, regardless of whether or not they have applied for such assistance, shall be given priority in obtaining ~~manpower~~ employment services including training and ~~public service employment~~ community service provided by or through State agencies or counties or with funds which are allocated to the State of North Carolina directly or indirectly through prime sponsors or otherwise for the purpose of employment of unemployed persons.

(c) [Repealed.]”

(b) Each county's Job Service Employer Committee or Workforce Development Board shall develop a study of the "working poor" in their respective counties and shall include the following in the study:

- (1) Determine the extent to which current labor market participation enables individuals and families to earn the amount of disposable income necessary to meet their basic needs;
- (2) Determine how many North Carolinians work and earn wages below one hundred fifty percent (150%) of the Federal Poverty Guideline and study trends in the size and demographic profiles of this underemployed group within the respective county;
- (3) Examine job market factors that contribute to any changes in the composition and numbers of the working poor including, but not limited to, shifts from manufacturing to service, from full-time to part-time work, from permanent to temporary or their contingent employment;
- (4) Consider and determine the respective responsibilities of the public and private sectors in ensuring that working families and individuals have disposable income adequate to meet their basic needs;
- (5) Evaluate the effectiveness of the unemployment insurance system in meeting the needs of low-wage workers when they become unemployed;
- (6) Examine the efficacy of a State earned income tax credit that would enable working families to meet the requirements of the basic needs budget;
- (7) Examine the wages, benefits, and protections available to part-time and temporary workers, leased employees, independent contractors, and other contingent workers as compared to regular full-time workers;
- (8) Solicit, receive, and accept grants or other funds from any person or entity and enter into agreements with respect to these grants or other funds regarding the undertaking of studies or plans necessary to carry out the purposes of the committee; and

- (9) Request any necessary data from either public or private entities that relate to the needs of the committee or board.

Each committee or board shall prepare and submit a report on the finding for the county which it represents by May 1, 1998, to the Joint Legislative Public Assistance Commission, the House of Representatives and Senate Appropriations Subcommittees on Humans Resources and Natural and Economic Resources. Each committee or board may involve the Department of Commerce in conducting its study and preparing the report.

(c) Of the funds appropriated in this act to the Office of State Budget and Management, the sum of one million five hundred thousand two hundred two dollars (\$1,500,202) for fiscal year 1997-98 shall be allocated to the Department of Commerce for the following purposes:

- (1) To establish First Stop Employment Assistance in the Department of Commerce;
- (2) To expand the Labor Market Information System in the Employment Security Commission; and
- (3) To assist the Job Service Employer Committees or the Workforce Development Boards in their completion of the study of the working poor.

The Department of Commerce shall report its recommendations regarding future funding of the First Stop Employment Assistance Program to the 1997 General Assembly, 1998 Regular Session, upon its convening.

(d) G.S. 126-7.1 reads as rewritten:

"§ 126-7.1. *Posting requirement; State employees receive priority consideration; reduction-in-force ~~rights~~; rights; Work First hiring.*

(a) All vacancies for which any State agency, department, or institution openly recruit shall be posted within at least the following:

- (1) The personnel office of the agency, department, or institution having the vacancy; and
- (2) The particular work unit of the agency, department, or institution having the vacancy

in a location readily accessible to employees. If the decision is made, initially or at any time while the vacancy remains open, to receive applicants from outside the recruiting agency, department, or institution, the vacancy shall be listed with the Office of State Personnel for the purpose of informing current State employees of such vacancy. The State agency, department, or institution may not receive approval from the Office of State Personnel to fill a job vacancy if the agency, department, or institution cannot prove to the satisfaction of the Office of State Personnel that it complied with these posting requirements. The agency, department, or institution which hires any person in violation of these posting requirements shall pay such person when employment is discontinued as a result of such violation for the work performed during the period of time between his initial employment and separation.

(a1) State employees to be affected by a reduction in force shall be notified of the reduction in force as soon as practicable, and in any event, no less than 30 days prior to the effective date of the reduction in force.

(a2) The State Personnel Commission shall adopt rules to provide that priority consideration for State employees separated from State employment

as the result of reductions in force is to enable a State employee's return to career service at a salary grade and salary rate equal to that held in the most recent position. The State Personnel Commission shall provide that a State employee who:

- (1) Accepts a position at the same salary grade shall be paid at the same salary rate as the employee's previous position.
- (2) Accepts a position at a lower salary grade than the employee's previous position shall be paid at the same rate as the previous position unless the salary rate exceeds the maximum of the new salary grade. When the salary rate exceeds the maximum of the salary grade, the employee's new salary rate shall be reduced to the maximum of the new salary grade.

(b) Subsection (a) of this section does not apply to vacancies which must be filled immediately to prevent work stoppage or the protection of the public health, safety, or security.

(c) If a State employee subject to this section:

- (1) Applies for another position of State employment that would constitute a promotion and;
- (2) Has substantially equal qualifications as an applicant who is not a State employee

then the State employee shall receive priority consideration over the applicant who is not a State employee. This priority consideration shall not apply when the only applicants considered for the vacancy are current State employees.

(c1) If a State employee who has been separated due to reduction in force or who has been given notice of imminent separation due to reduction in force:

- (1) Applies for another position of State employment equal to or lower in salary grade than the position held by the employee at the time of notification or separation; and
- (2) Is determined qualified for that position

then within all State agencies, the State employee shall receive priority consideration over all other applicants but shall receive equal consideration with other applicants who are current State employees not affected by the reduction in force. This priority shall remain in effect for a period of 12 months from the date the employee receives notification of separation by reduction in force. State employees separated due to reduction in force shall receive higher priority than other applicants with employment or reemployment priorities, except that the reemployment priority created by G.S. 126-5(e)(1) shall be considered as equal. The reduction-in-force priority created by this subsection shall be administered in accordance with rules promulgated by the State Personnel Commission.

(c2) If the applicants for reemployment for a position include current State employees, a State employee with more than 10 years of service shall receive priority consideration over a State employee having less than 10 years of service in the same or related position classification. This reemployment priority shall be given by all State departments, agencies, and institutions with regard to positions subject to this Chapter.

(d) 'Qualifications' within the meaning of subsection (c) of this section shall consist of:

- (1) Training or education;
- (2) Years of experience; and
- (3) Other skills, knowledge, and abilities that bear a reasonable functional relationship to the abilities and skills required in the job vacancy applied for.

(e) Each State agency, department, and institution is encouraged to hire into State government employment qualified applicants who are current or former Work First Program participants."

Section 12.8. Chapter 108A of the General Statutes is amended by adding a new section to read:

"§ 108A-29.1. Substance abuse treatment required; drug testing for Work First Program recipients.

(a) Each applicant or current recipient of Work First Program benefits, determined by a Qualified Substance Abuse Professional (QSAP) or by a physician certified by the American Society of Addiction Medicine (ASAM) to be addicted to alcohol or drugs and to be in need of professional substance abuse treatment services shall be required, as part of the person's MRA and as a condition to receiving Work First Program benefits, to participate satisfactorily in an individualized plan of treatment in an appropriate treatment program. As a mandatory program component of participation in an addiction treatment program, each applicant or current recipient shall be required to submit to an approved, reliable, and professionally administered regimen of testing for presence of alcohol or drugs, without advance notice, during and after participation, in accordance with the addiction treatment program's individualized plan of treatment, follow-up, and continuing care services for the applicant or current recipient.

(b) An applicant or current recipient who fails to comply with any requirement imposed pursuant to this section shall not be eligible for benefits or shall be subject to the termination of benefits, but shall be considered to be receiving benefits for purposes of determining eligibility for medical assistance.

(c) The children of any applicant or current recipient shall remain eligible for benefits, and these benefits shall be paid to a protective payee pursuant to G.S. 108A-38.

(d) An applicant or current recipient shall not be regarded as failing to comply with the requirements of this section if an appropriate drug or alcohol treatment program is unavailable.

(e) Area mental health authorities organized pursuant to Article 4 of Chapter 122C of the General Statutes shall be responsible for administering the provisions of this section.

(f) The requirements of this section may be waived or modified as necessary in the case of individual applicants or recipients to the degree necessary to comply with Medicaid eligibility provisions."

Section 12.8A. G.S. 108A-31 reads as rewritten:

"§ 108A-31. Application for assistance.

~~Any person or his representative who believes that he or another the person is eligible to receive aid to families with dependent children. Work First Program assistance may apply for assistance to the county department of social services in the county in which the applicant person resides, resides, or, in the case of residents of Electing Counties, to the public or private entity designated by the board of county commissioners. It shall be made in such form and shall contain such information as the Social Services Commission and federal regulations may require. Counties shall record inquiries for and accept applications from all persons requesting to apply for Work First Program assistance. Counties shall process applications in a reasonable and timely manner."~~

Section 12.9. G.S. 108A-38 reads as rewritten:

"§ 108A-38. *Protective and vendor payments.*

~~Instead of the use of personal representatives provided for by G.S. 108A-37, when~~ When necessary to comply with any present or future federal law or regulation in order to obtain federal participation in public assistance payments, the payments may be made direct to vendors to reimburse them for goods and services provided the applicants or recipients, and may be made to protective payees who shall act for the applicant or recipient for receiving and managing assistance. Payments to vendors and protective payees shall be made to the extent provided in, and in accordance with, rules ~~and regulations~~ of the Social Services Commission or the Department, which rules ~~and regulations~~ shall be subject to applicable federal laws and regulations."

Section 12.10. G.S. 108A-49 reads as rewritten:

"§ 108A-49. *Foster care and adoption assistance payments.*

(a) Benefits in the form of foster care assistance shall be granted in accordance with the rules ~~and regulations~~ of the Social Services Commission to any dependent child who ~~is would have been~~ eligible to receive AFDC Aid to Families with Dependent Children (as that program was in effect on June 1, 1995), but for his or her removal from the home of a specified relative for placement in a foster care facility; provided, that the child's placement and care is the responsibility of a county department of social services.

(b) Adoption assistance payments for certain adoptive children shall be granted in accordance with the rules ~~and regulations~~ of the Social Services Commission to adoptive parents who adopt a child eligible to receive foster care maintenance payments or supplemental security income benefits; provided, that the child cannot be returned to his or her parents; and provided, that the child has special needs which create a financial barrier to adoption.

(c) The Department is authorized to use available federal payments to states under Title IV-E of the Social Security Act for foster care and adoption assistance payments."

Section 12.11. G.S. 108A-58 reads as rewritten:

"§ 108A-58. *Transfer of property for purposes of qualifying for medical assistance; periods of ineligibility.*

(a) Any person, otherwise eligible, who, either while receiving medical assistance benefits or within one year prior to the date of applying for medical assistance benefits, unless some other time period is mandated by

controlling federal law, sells, gives, assigns or transfers countable real or personal property or an interest ~~therein, either by himself or through his legal representative,~~ in real or personal property for the purpose of retaining or establishing eligibility for medical assistance benefits, shall be ineligible to receive medical assistance benefits ~~thereafter~~ as set forth in subsection (c) of this section.

Countable real and personal property includes real property, excluding a homesite, intangible personal property, nonessential motor and recreational vehicles, nonincome producing business equipment, boats and motors. The provisions of this act shall not apply to the sale, gift, assignment or transfer of real or personal property if and to the extent that the person applying for medical assistance would have been eligible for such assistance notwithstanding ownership of such property or an interest therein.

(b) Any sale, gift, assignment or transfer of real or personal property or an interest ~~therein,~~ in real or personal property, as provided in subsection (a) of this section, shall be presumed to have been made for the purpose of retaining or establishing eligibility for medical assistance benefits unless the person, or ~~his~~ the person's legal representative, who sells, gives, assigns or transfers the property or interest, receives valuable consideration at least equal to the fair market value, less encumbrances, of the property or interest.

(c) Any person ~~who, by himself or through his legal representative,~~ who sells, gives, assigns or transfers real or personal property or an interest therein in real or personal property for the purpose of retaining or establishing eligibility for medical assistance benefits, as provided in subsection (a) of this section, ~~shall~~ shall, after the time of transfer, be ineligible to receive these benefits ~~thereafter~~ until an amount equal to the uncompensated value of the property or interest has been expended by or on behalf of the person for ~~his~~ the person's maintenance and support, including medical expenses, paid or incurred, or shall be ineligible in accordance with the following schedule, whichever is sooner:

- (1) For uncompensated value of at least one thousand dollars (\$1,000) but not more than six thousand dollars (\$6,000), a one-year period of ineligibility from date of sale, gift, assignment or transfer;
- (2) For uncompensated value of more than six thousand dollars (\$6,000) but not more than twelve thousand dollars (\$12,000), a two-year period of ineligibility from date of sale, gift, assignment or transfer;
- (3) For uncompensated value of more than twelve thousand dollars (\$12,000), a two-year period of ineligibility from date of sale, gift, assignment or transfer, plus one additional month of ineligibility for each five hundred dollar (\$500.00) increment or portion thereof by which the uncompensated value exceeds twelve thousand dollars (\$12,000), but in no event to exceed three years.

(d) The sale, gift, assignment or transfer for a consideration less than fair market value, less encumbrances, of any tangible personal property which was acquired with the proceeds of sale, assignment or transfer of real or intangible personal property described in subsection (a) of this section or in exchange for such real or intangible personal property shall be presumed to

have been for the purpose of evading the provisions of this section if the acquisition and sale, gift, assignment or transfer of the tangible personal property is by or on behalf of a person receiving medical assistance or within one year of making application for such assistance and the consequences of the sale, gift, assignment or transfer of such tangible personal property shall be determined under the provisions of subsections (c), (f) and (g) of this section.

(e) The presumptions created by subsections (b) and (d) may be overcome if the person receiving or applying for medical assistance, or his the person's legal representative, establishes by the greater weight of the evidence that the sale, gift, assignment or transfer was exclusively for some purpose other than retaining or establishing eligibility for medical assistance benefits.

(f) For the purpose of establishing uncompensated value under subsection (c), the value of property or an interest therein shall be the fair market value of the property or interest at the time of the sale, gift, assignment or transfer, less the amount of compensation, if any, received for the property or interest. There shall be a rebuttable presumption that the fair market value of real property is the most recent property tax value of the property, as ascertained according to Subchapter II of Chapter 105 of the General Statutes. Fair market value for purpose of this subsection shall be such value, determined as above set out, less any legally enforceable encumbrances to which the property is subject.

(g) In the event that there is more than one sale, gift, assignment or transfer of property or an interest therein by a person receiving medical assistance or within one year of the date of an application for medical assistance, unless some other time period is mandated by controlling federal law, the uncompensated value, for the purposes of subsection (c), shall be the aggregate uncompensated value of all sales, gifts, assignments and transfers. The date which is the midpoint between the date of the first and last sale, gift, assignment or transfer shall be the date from which the period of ineligibility shall be determined under subsection (c).

(h) This section shall not apply to applicants for or recipients of ~~aid to families with dependent children~~ Work First Family Assistance or to persons entitled to medical assistance by virtue of their eligibility for ~~aid to families with dependent children~~ Work First Family Assistance.

(i) This section shall apply only to transfers made before July 1, 1988."

Section 12.12. G.S. 108A-80 reads as rewritten:

"§ 108A-80. Confidentiality of records.

(a) Except as provided in (b) below, it shall be unlawful for any person to obtain, disclose or use, or to authorize, permit, or acquiesce in the use of any list of names or other information concerning persons applying for or receiving public assistance or social services that may be directly or indirectly derived from the records, files or communications of the Department or the county boards of social services, or county departments of social services or acquired in the course of performing official duties except for the purposes directly connected with the administration of the programs of public assistance and social services in accordance with federal law, rules

and ~~regulations and regulations~~, and the rules ~~and regulations~~ of the Social Services Commission or the Department.

(b) The Department shall furnish a copy of the recipient check register monthly to each county auditor showing a complete list of all recipients of ~~Aid To Families with Dependent Children~~ Work First Family Assistance in Standard Program Counties and State-County Special Assistance for Adults, their addresses, and the amounts of the monthly grants. An Electing County whose checks are not being issued by the State shall furnish a copy of the recipient check register monthly to its county auditor showing a complete list of all recipients of Work First Family Assistance in the Electing County, their addresses, and the amounts of the monthly payments. ~~This register~~ These registers shall be a public record ~~records~~ open to public inspection during the regular office hours of the county auditor, but ~~said register~~ the registers or the information contained therein may not be used for any commercial or political purpose. Any violation of this section shall constitute a Class 1 misdemeanor.

(c) Any listing of recipients of benefits under any public assistance or social services program compiled by or used for official purposes by a county board of social services or a county department of social services shall not be used as a mailing list for political purposes. This prohibition shall apply to any list of recipients of benefits of any federal, State, county or mixed public assistance or social services program. Further, this prohibition shall apply to the use of such listing by any person, organization, corporation, or business, including but not limited to public officers or employees of federal, State, county, or other local governments, as a mailing list for political purposes. Any violation of this section shall be punishable as a Class 1 misdemeanor.

(d) The Social Services Commission ~~shall have the authority to~~ may adopt rules ~~and regulations~~ governing access to case files for social services and public assistance programs, except the Medical Assistance Program. The Secretary of the Department of Human Resources shall have the authority to adopt rules ~~and regulations~~ governing access to medical assistance case files."

Section 12.12A. Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-15.3C. Work First Reserve Fund.

(a) The State Controller shall establish a restricted reserve in the General Fund to be known as the Work First Reserve Fund. At the end of each fiscal year, the State Controller shall reserve State funds into this reserve in an amount equalling one-fourth of any Work First Program funds from State General Fund appropriations remaining unexpended at the end of the fiscal year, up to a maximum balance in the account of fifty million dollars (\$50,000,000). The General Assembly may appropriate additional funds into this reserve.

(b) Funds in the Work First Reserve Fund shall be used only for the purposes described in Title IV of the Social Security Act and only as provided in G.S. 108A-27.16.

(c) The Director of the Budget shall report to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Public

Assistance Commission, and the House and Senate Appropriations Subcommittees on Human Resources prior to using the funds described in subsection (a) of this section."

Section 12.13. G.S. 153A-255 reads as rewritten:

"§ 153A-255. Authority to provide social service programs.

Each county shall provide social service programs pursuant to Chapter 108A and Chapter 111 and may otherwise undertake, sponsor, organize, engage in, and support other social service programs intended to further the health, welfare, education, employment, safety, comfort, and convenience of its citizens."

Section 12.14. G.S. 108A-28, 108A-28.1, 108A-30, 108A-32, 108A-33, 108A-34, 108A-35, 108A-39.1, and 108A-92 are repealed.

Section 12.15. Article 12G of Chapter 120 of the General Statutes is repealed.

Section 12.16. (a) The Department of Labor, in conjunction with the Department of Health and Human Services, shall establish a pilot project creating Individual Development Accounts (IDA) to assist working families.

(b) Of the funds appropriated in this act to the Office of State Budget and Management, the sum of three hundred thousand dollars (\$300,000) for the 1997-98 fiscal year and the sum of three hundred thousand dollars (\$300,000) for the 1998-99 fiscal year shall be transferred to the Department of Labor to establish a pilot project creating Individual Development Accounts (IDA) to:

- (1) Provide individuals and families, especially the underemployed, an opportunity and an incentive to accumulate assets.
- (2) Promote investments in education, homeownership, and microenterprise development.
- (3) Demonstrate that household savings strategies, such as the development of IDAs, can be a powerful strategy for assisting working persons and families to achieve long-term self-sufficiency.
- (4) Utilize and build comprehensive community partnerships that support asset building in low-wealth communities.

(c) The funds allocated in this section shall be made available to serve as matching funds for personal savings of qualified participants selected to participate in a multiyear demonstration to last not more than five years. Other expenses of the demonstration, including training, technical assistance, evaluation, and other program and administrative expenses, shall be covered from other public and private sources. Matching funds provided from the funds allocated in this section may be used by qualified participants for home purchase, investment in a business or self-employment venture owned by the participant, or costs of postsecondary education or training for the participant. Participants shall not be restricted as to the amounts or sources of funds deposited in the account, but in order to create the incentive for continued savings, only savings from earned income will qualify for State matching funds. Tax return reports of earned income shall be used to verify compliance. Funds contained in Individual Development Accounts shall not be counted as assets in the Work First Program.

Section 12.17. (a) Notwithstanding any other provision of law, beginning October 1, 1997, each county shall dedicate the full return to the

county for AFDC and Work First Cash Assistance benefit amount that was determined fraudulent or erroneous and recovered by that county pursuant to the AFDC Fraud Control Program to enhance and improve program integrity.

(b) The return to the county shall be determined as follows:

(1) For collections relative to AFDC or Work First cash assistance payments made prior to January 1, 1997, the return shall be equal to the county's distributive share and one-half of the State's distributive share of the total AFDC and Work First cash assistance benefits recovered.

(2) For collections relative to Work First cash assistance benefits paid on or after January 1, 1997, the return shall be equal to seventy-five percent (75%) of the total amount recovered.

(c) The Department of Health and Human Services shall ensure that persons charged with, or suspected of, AFDC or Work First fraud not be subjected to any of the following:

(1) Coercion;

(2) Discrimination in targeting persons for civil action or criminal prosecution; or

(3) Civil investigation or civil action without being (i) properly informed as to those matters that might arise out of the investigation, or action that might result in criminal prosecution and (ii) in such a case, being properly advised of their right not to incriminate themselves.

Section 12.18. (a) There is established a Joint Legislative Public Assistance Commission. The Joint Legislative Public Assistance Commission shall perform the duties and functions provided in this Part, shall monitor implementation of the provisions of this Part, and shall make any necessary recommendations to the General Assembly regarding any further changes to law or rule. The Speaker of the House of Representatives shall appoint 10 members, two of whom shall be cochair, and the President Pro Tempore of the Senate shall appoint 10 members, two of whom shall be cochair. The Joint Legislative Public Assistance Commission shall first convene within 30 days after this part becomes law.

(b) The Department shall report any changes made to the State Plan to the Joint Legislative Public Assistance Commission within 60 days after the change.

Section 12.19. The Legislative Research Commission may study issues relating to the Medical Assistance Program and the State-County Special Assistance Program, including the following: the need for further restrictions and longer periods of disqualification for the transfer of property for purposes of qualifying for medical assistance and State-County Special Assistance, and appropriate recovery from recipient estates of benefits paid by the Medical Assistance Program and the State-County Special Assistance Program. The Legislative Research Commission may report the results of its study, along with any legislative proposals and cost analyses, to the 1998 General Assembly.

Section 12.20. (a) Counties desiring to be designated as Electing Counties shall submit a request in writing to the Department of Health and

Human Services not later than October 31, 1997. The Department shall notify Electing Counties not later than November 15, 1997.

(b) The requirement that the Department prepare and submit the State Plan to the General Assembly for approval in accordance with the procedures set forth in G.S. 143-16.1 shall not be applicable for fiscal year 1997-98. Until the counties have prepared their county plans and the State has prepared the State Plan in accordance with this Part and that State Plan has been enacted by the General Assembly and it becomes law, the provisions of the State Plan submitted to the federal government on October 16, 1996, shall remain in effect. State Plans submitted after the 1997-98 fiscal year shall be enacted by the General Assembly and become law in order to be effective.

(c) Utilizing Government Auditing Standards issued by the Comptroller General of the United States, an independent evaluator shall evaluate the operation of the Work First Program in the Standard Program Counties and in the Electing Counties, based on criteria established by the State Auditor in consultation with the Standard Program Counties and the Electing Counties. The evaluation shall include a review of the Electing Counties' methodologies and the impact of those methodologies upon the Work First Program. The independent evaluator shall present a report of the findings to the 2000 General Assembly. The Department shall select the independent evaluator to perform the evaluation. The report shall include the following:

- (1) Whether the Electing County/Standard Program County system should be continued or modified, and the rationale for the recommendation;
- (2) Five-year projections as to the impact of continuing the Electing County/Standard Program County system, based on anticipated outcome measures related to child well-being, economic data, and other means of measuring the success of the system;
- (3) Whether the numbers of Electing Counties should be expanded and under what conditions.

Any Electing County may elect to contract for its own independent evaluation. Any Electing County that elects to contract for its own independent evaluation shall submit a report of its evaluation to the Department for inclusion in the report described in this subsection. The report shall be presented to the House and Senate Appropriations Subcommittees on Human Resources, the Joint Legislative Public Assistance Commission, and the Joint Legislative Commission on Governmental Operations on or before February 1, 2000.

(d) The Department of Health and Human Services shall study the movement of recipients of Work First Program assistance between counties within the State, particularly the movement of recipients into and out of Electing Counties, and the reasons for movement, including differences in eligibility criteria, benefit levels, and time limits. The Department shall report the results of its study to the House and Senate Appropriations Subcommittees on Human Resources, the Joint Legislative Public Assistance Commission, and the Joint Legislative Commission on Governmental Operations on or before February 1, 2000.

(e) The Department of Health and Human Services shall monitor the following and report its findings quarterly to the House and Senate Appropriations Subcommittees on Human Resources and the Joint Legislative Public Assistance Commission:

- (1) The number of Work First Program recipients anticipated to remain without work and lose benefits due to time limits imposed by federal and State law and local policy;
- (2) Efforts being made by counties and the State to intensify efforts designed to prevent recipients from losing benefits where they are making reasonable efforts to become and remain employed; and
- (3) The reasons recipients who are subject to termination for failure to meet work requirements were unable to find work.

The Joint Legislative Public Assistance Commission shall further examine ways that Work First Program recipients can overcome obstacles to finding employment and remaining employed.

Section 12.20A. (a) The Department of Commerce, the Employment Security Commission, and the Department of Health and Human Services shall proceed, in consultation with the community college system, to develop an amended Work First State Plan to secure federal Welfare-to-Work grant funds to assist Work First Program recipients in obtaining employment. The Department of Commerce, the Employment Security Commission, and the Department of Health and Human Services shall identify potential sources of State funds which may be used as a match for the federal grant. The Governor shall designate the Department of Commerce as the State's lead agency for the Welfare-to-Work initiative. The Governor also shall pursue a waiver from the federal government to permit the Job Service Employer Committees to administer the program at the local level.

(b) The Department of Commerce, the Employment Security Commission, and the Department of Health and Human Services shall develop a plan to implement the Welfare-to-Work initiative in this State, develop performance goals and measures for this initiative, and estimate the cost impact on the State budget for the next five years of implementing the initiative. The Department of Commerce, the Employment Security Commission, and the Department of Health and Human Services shall report to the General Assembly its findings and recommendations by April 1, 1998. The Department of Commerce shall not expend any State or federal funds for the Welfare-to-Work initiative until the amended State Plan is submitted to the General Assembly and the amended State Plan becomes law.

Section 12.21. (a) Chapter 114 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 6.

"Office of the Inspector General.

"§ 114-40. Inspector General.

(a) The Office of Inspector General is established in the Department of Justice to provide a central point for coordination of and responsibility for activities related to detection, prosecution, and prevention of fraud, abuse, and waste in means-tested public assistance programs. The Office of Inspector General is designated as the State Law Enforcement Bureau

(SLEB) to take custody and control of food stamps from the federal Food and Consumer Service to make them available to nonfederal law enforcement and investigative agencies to conduct criminal and food stamp program violation investigations.

(b) It shall be the duty and responsibility of the Inspector General to:

- (1) Receive complaints and information concerning alleged fraud, abuse, and waste in means-tested public assistance programs;
- (2) Investigate complaints and information received concerning alleged fraud, abuse, or waste in means-tested public assistance programs and, whenever the Inspector General finds it appropriate to do so, to pursue action for any violations of law relating to means-tested public assistance programs, whether by civil action or by criminal prosecution;
- (3) Review the activities performed in the Department of Health and Human Services, Divisions of Medical Assistance and Social Services, and in local district attorney's offices relating to detection, prosecution, and prevention of fraud, abuse, or waste in means-tested public assistance programs;
- (4) Coordinate and implement fraud, abuse, and waste detection, prosecution, and prevention activities between local program integrity workers, local district attorney's offices, and the State;
- (5) Keep the Secretary of Health and Human Services informed concerning fraud, abuse, waste, and deficiencies relating to means-tested public assistance programs administered or financed by the Department of Health and Human Services, recommend corrective action concerning fraud, abuses, and deficiencies, and report to the Secretary and the Joint Legislative Public Assistance Commission on the progress made in implementing corrective action;
- (6) Ensure effective coordination and cooperation between the State Auditor, federal auditors, the Department of Health and Human Services, and other governmental bodies in fraud, abuse, and waste detection, prosecution, and prevention activities relating to means-tested public assistance programs with a view toward avoiding duplication; and
- (7) Educate State and local law enforcement agencies concerning fraud, abuse, and waste detection, prosecution, and prevention in public assistance programs and encourage pursuit of prosecution of violations.

(c) The Inspector General shall be appointed by the Attorney General and shall report to an official designated by the Attorney General. The Inspector General shall be appointed without regard to political affiliation.

(d) The Inspector General may be removed from office by the Attorney General.

(e) The Inspector General shall have access to any records, data, or other information of the Department of Health and Human Services and local county agencies the Inspector General believes necessary to carry out the Inspector General's duties. The Inspector General may request any

information or assistance as may be necessary from the Department or from any federal, State, or local government entity.

"§ 114-41. Inspector General; investigations.

(a) In carrying out the duties and responsibilities specified in this Article, the Inspector General may initiate, conduct, supervise, and coordinate investigations designed to detect, deter, prevent, and eradicate fraud, abuse, and waste in means-tested public assistance programs. For these purposes, the Inspector General shall:

- (1) Receive and consider complaints and conduct, supervise, or coordinate such inquiries, investigations, or reviews as the Inspector General finds appropriate. The Inspector General may receive complaints and information directly from local program integrity workers;
- (2) Establish policies and standards for the investigation, detection, and elimination of fraud, abuse, waste, and mismanagement in the means-tested public assistance programs;
- (3) Establish and coordinate training programs for local and State program integrity workers to improve detection of fraud, abuse, and waste;
- (4) Provide assistance to the federal government aimed at eliminating food stamp violations;
- (5) Report expeditiously to the State Bureau of Investigation or other law enforcement agencies, as appropriate, whenever the Inspector General has reasonable grounds to believe there has been a violation of criminal law. The Inspector General may, whenever the Inspector General finds it to be appropriate, prosecute violations of criminal law or bring a civil action relating to fraud, abuse, or waste in means-tested public assistance programs on behalf of the State;
- (6) Conduct investigations and other inquiries free of actual or perceived impairment to the independence of the Inspector General or when the Inspector General has reasonable grounds to believe there has been a violation of criminal law; and
- (7) Submit in a timely fashion final reports on investigations conducted by the Inspector General to the Attorney General.

(b) The Inspector General shall, not later than September 30 of each year, prepare an annual report summarizing the activities of the office during the immediately preceding State fiscal year. The final report shall be furnished to the Attorney General and to the Secretary of the Department of Health and Human Services. The report shall include a summary of investigative activities.

"§ 114-42. Inspector General; complaints.

(a) Any person who knows or has reasonable cause to believe that a person has committed, or is in the process of committing, a violation of law relating to fraud, abuse, or waste in a public assistance program, may prepare and file with the Inspector General a complaint that identifies the person making the report and the person who allegedly committed or is committing the wrongful act or omission, describes the wrongful act or omission, and explains how the person reporting knew or came to believe

that the person committed or is in the process of committing the wrongful act or omission.

(b) The Inspector General shall prescribe a form for complaints under this section. The Inspector General shall provide a blank copy of the form to any person, free of charge. No complaint is defective, however, because it is not made on the form prescribed by the Inspector General."

(b) Of the funds appropriated in this act to the Office of State Budget and Management, the sum of five hundred thousand dollars (\$500,000) for fiscal year 1997-98 shall be allocated to the Department of Justice to establish and support the Office of Inspector General.

(c) Article 3 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 31. Office of the Internal Auditor.

"§ 143B-216.50. Department of Health and Human Services; office of the Internal Auditor.

(a) The office of Internal Auditor is established in the Department of Health and Human Services. The office of the Internal Auditor shall provide independent reviews and analyses of various functions and programs within the Department that will provide management information to promote accountability, integrity, and efficiency within the Department.

(b) It shall be the duty and responsibility of the Internal Auditor to:

- (1) Advise in the development of performance measures, standards, and procedures for the evaluation of the Department;
- (2) Assess the reliability and validity of performance measures and the information provided by the Department on performance measures and standards and make recommendations for improvement, if necessary;
- (3) Review the actions taken by the Department of Health and Human Services to improve program performance and meet program standards and make recommendations for improvement, if necessary;
- (4) Provide direction for, supervise, and coordinate audits, investigations, and management reviews relating to programs and operations of the Department;
- (5) Conduct independent analyses of programs carried out or financed by the Department of Health and Human Services for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting waste, management, misconduct, fraud and abuse in its programs and operations;
- (6) Keep the Secretary of the Department of Health and Human Services informed concerning fraud, abuses, and deficiencies relating to programs and operations administered or financed by the Department of Health and Human Services, recommend corrective action concerning fraud, abuses, and deficiencies, and report on the progress made in implementing corrective action;
- (7) Ensure effective coordination and cooperation between the State Auditor, federal auditors, and other governmental bodies with a view toward avoiding duplication; and

(8) Ensure that an appropriate balance is maintained between audit, investigative, and other accountability activities.

(c) The Internal Auditor shall be appointed by the Secretary. The Internal Auditor shall be appointed without regard to political affiliation.

(d) The Internal Auditor shall report to an official designated by the Secretary.

(e) The Internal Auditor shall have access to any records, data, or other information of the Department the Internal Auditor believes necessary to carry out the Internal Auditor's duties.

"§ 143B-216.51. Department of Health and Human Services office of the Internal Auditor; Department audits.

(a) To ensure that Department audits are performed in accordance with applicable auditing standards, the Internal Auditor shall possess the following qualifications:

(1) A bachelors degree from an accredited college or university with a major in accounting, or with a major in business which includes five courses in accounting, and five years' experience as an internal auditor or independent postauditor, electronic data processing auditor, accountant, or any combination thereof. The experience shall, at a minimum, consist of audits of units of government or private business enterprises operating for profit or not for profit;

(2) A masters degree in accounting, business administration, or public administration from an accredited college or university and four years of experience as required in subdivision (1) of this subsection; or

(3) A certified public accountant license issued pursuant to law or a certified internal audit certificate issued by the Institute of Internal Auditors or earned by examination, and four years' experience as required in subdivision (1) of this subsection.

The Internal Auditor shall, to the extent both necessary and practicable, include on the Internal Auditor's staff individuals with electronic data processing auditing experience.

(b) In carrying out the auditing duties and responsibilities of this Part, the Internal Auditor shall review and evaluate internal controls necessary to ensure the fiscal accountability of the Department. The Internal Auditor shall conduct financial, compliance, electronic data processing, and performance audits of the Department and prepare audit reports of findings. The scope and assignment of the audits shall be determined by the Internal Auditor; however, the Secretary may at any time direct the Internal Auditor to perform an audit of a special program, function, or organizational unit. The performance of the audit shall be under the direction of the Internal Auditor.

(c) Audits undertaken pursuant to this Part shall be conducted in accordance with auditing standards prescribed by the State Auditor. All audit reports issued by internal audit staff shall include a statement that the audit was conducted pursuant to these standards.

(d) The Internal Auditor shall maintain, for 10 years, a complete file of all audit reports and reports of other examinations, investigations, surveys,

and reviews issued under the Internal Auditor's authority. Audit work papers and other evidence and related supportive material directly pertaining to the work of his office shall be retained according to an agreement between the Internal Auditor and State Archives. To promote cooperation and avoid unnecessary duplication of audit effort, audit work papers related to issued audit reports shall be, unless otherwise prohibited by law, made available for inspection by duly authorized representatives of the State and federal governments in connection with some matter officially before them. Except as otherwise provided in this subsection, or upon subpoena issued by a duly authorized court or court official, audit work papers shall be kept confidential. Audit reports shall be public records to the extent that they do not include information which, under State laws, is confidential and exempt from Chapter 132 of the General Statutes or would compromise the security systems of the Department.

(e) The Internal Auditor shall submit the final report to the Secretary.

(f) The State Auditor shall review a sample of the Department's internal audit reports and related work papers when determined by the State Auditor that, when conducting audits, it would be efficient to consider the work of the Internal Auditor. If the State Auditor finds deficiencies in the work of the Internal Auditor, the State Auditor shall include a statement of these findings in the audit report of the Department. The office of the Internal Auditor will cause to be made an external quality control review at least once every three years by a qualified organization not affiliated with the office of the Internal Auditor. The external quality review should determine whether the Department's internal quality control system is in place and operating effectively to provide reasonable assurance that established policies and procedures and applicable audit standards are being followed.

(g) The Internal Auditor shall monitor the implementation of the Department's response to any audit of the Department conducted by the State Auditor pursuant to law. No later than six months after the State Auditor publishes a report of the audit of the Department, the Internal Auditor shall report to the Secretary on the status of corrective actions taken. A copy of the report shall be filed with the Joint Legislative Commission on Governmental Operations.

(h) The Internal Auditor shall develop long-term and annual audit plans based on the findings of periodic risk assessments. The plan, where appropriate, should include postaudit samplings of payments and accounts. The plan shall show the individual audits to be conducted during each year and related resources to be devoted to the respective audits. The State Controller may utilize audits performed by the Internal Auditor. The plan shall be submitted to the Secretary for approval. A copy of the approved plan shall be submitted to the State Auditor."

(d) The Department of Justice and the Department of Health and Human Services shall immediately proceed with the implementation of this section, including proceeding with all actions necessary to establish a State Law Enforcement Bureau (SLEB) program for food stamps in the State.

SUBPART B. STATUTORY TECHNICAL AND CONFORMING CHANGES RELATING TO ENACTMENT OF THE WORK FIRST PROGRAM.

Section 12.22. G.S. 1-110(a) reads as rewritten:

"(a) Subject to the provisions of subsection (b) of this section with respect to prison inmates, any superior or district court judge or clerk of the superior court may authorize a person to sue as an indigent in their respective courts when the person makes affidavit that he or she is unable to advance the required court costs. The clerk of superior court shall authorize a person to sue as an indigent if the person makes the required affidavit and meets one or more of the following criteria:

- (1) Receives food stamps.
- (2) ~~Receives Aid to Families with Dependent Children (AFDC).~~ Work First Family Assistance.
- (3) Receives Supplemental Security Income (SSI).
- (4) Is represented by a legal services organization that has as its primary purpose the furnishing of legal services to indigent persons.
- (5) Is represented by private counsel working on the behalf of or under the auspices of a legal services organization under subdivision (4) of this section.
- (6) Is seeking to obtain a domestic violence protective order pursuant to G.S. 50B-2.

A superior or district court judge or clerk of superior court may authorize a person who does not meet one or more of these criteria to sue as an indigent if the person is unable to advance the required court costs. The court to which the summons is returnable may dismiss the case and charge the court costs to the person suing as an indigent if the allegations contained in the affidavit are determined to be untrue or if the court is satisfied that the action is frivolous or malicious."

Section 12.23. G.S. 15-155.1 reads as rewritten:

"§ 15-155.1. ~~Reports to district attorneys of aid to dependent children~~ Work First Family Assistance and illegitimate out-of-wedlock births.

The Department of Human Resources, by and through the Secretary of Human Resources, shall promptly after June 19, 1959, make a report to each district attorney, setting out the names and addresses of all mothers who reside in his prosecutorial district as defined in G.S. 7A-60 and are recipients of ~~aid to dependent children~~ assistance under the provisions of Part 2, Article 2, Chapter 108A of the General Statutes. Such report shall in some manner show the identity of the unwed mothers and shall set forth the number of children born to each said mother. Such a report shall also be made monthly thereafter setting out the names and addresses of all such mothers who reside in the district and who may have become recipients of ~~aid to dependent children~~ assistance under the provisions of Part 2, Article 2, Chapter 108A of the General Statutes since the date of the last report."

Section 12.24. G.S. 15-155.2(a) reads as rewritten:

"(a) Upon receipt of such reports as are provided for in G.S. 15-155.1, the district attorney of superior court may make an investigation to determine

whether the mother of an ~~illegitimate out-of-wedlock~~ child or who is a recipient of ~~aid to a dependent child or children~~, Work First Family Assistance, has abandoned, is willfully neglecting or is refusing to support and maintain the child within the meaning of G.S. 14-326 or 49-2 or is diverting any part of the funds received as ~~aid to a dependent child~~ Work First Family Assistance to any purpose other than for the support and maintenance of ~~such dependent~~ a child in violation of G.S. 108-76.1. In making this investigation the district attorney is authorized to call upon:

- (1) Any county board of social services or the Department of Human Resources for personal, clerical or investigative assistance and for access to any records kept by either such board and relating to the matter under investigation and such boards are hereby directed to assist in all investigations hereunder and to furnish all records relating thereto when so requested by the district attorney;
- (2) The board of county commissioners of any county within his district for legal or clerical assistance in making any investigation or investigations in such county and such boards are hereby authorized to furnish such assistance in their discretion; and
- (3) The district attorney of any inferior court in his district for personal assistance in making any investigation or investigations in the county in which the court is located and any district attorney so called upon is hereby authorized to furnish such assistance by and with the consent of the board of county commissioners of the county in which the court is located, which board shall provide and fix his compensation for assistance furnished."

Section 12.25. G.S. 95-25.3(d) reads as rewritten:

"(d) The Commissioner, in order to prevent curtailment of opportunities for employment of the economically disadvantaged and the unemployed, may, by regulation, establish a wage rate not less than eighty-five percent (85%) of the otherwise applicable wage rate in effect under subsection (a) which shall apply to all persons (i) who have been unemployed for at least 15 weeks and who are economically disadvantaged, or (ii) who are, or whose families are, receiving ~~aid to families with dependent children provided under Part A of Title IV of the Social Security Act~~, Work First Family Assistance or who are receiving supplemental security benefits under Title XVI of the Social Security Act.

Pursuant to regulations issued by the Commissioner, certificates establishing eligibility for such subminimum wage shall be issued by the Employment Security Commission.

The regulation issued by the Commissioner shall not permit employment at the subminimum rate for a period in excess of 52 weeks."

Section 12.26. G.S. 105A-2(1) reads as rewritten:

"(1) 'Claimant agency' means and includes:

- a. The State Education Assistance Authority as enabled by Article 23 of Chapter 116 of the General Statutes;
- b. The North Carolina Department of Human Resources when in the exercise of its authority to collect health profession student loans made pursuant to G.S. 131-121;

- c. The North Carolina Department of Human Resources when in the performance of its duties under the Medical Assistance Program enabled by Chapter 108A, Article 2, Part 6, and any county operating the same Program at the local level, when and only to the extent such a county is in the performance of Medical Assistance Program collection functions;
- d. The North Carolina Department of Human Resources when in the performance of its duties, under the Child Support Enforcement Program as enabled by Chapter 110, Article 9 and Title IV, Part D of the Social Security Act to obtain indemnification for past paid public assistance or to collect child support arrearages owed to an individual receiving program services and any county operating the program at the local level, when and only to the extent that the county is engaged in the performance of those same duties;
- e. The University of North Carolina, including its constituent institutions as specified by G.S. 116-2(4);
- f. The University of North Carolina Hospitals at Chapel Hill in the conduct of its financial affairs and operations pursuant to G.S. 116-37;
- g. The Board of Governors of the University of North Carolina and the State Board of Education through the College Scholarship Loan Committee when in the performance of its duties of administering the Scholarship Loan Fund for Prospective College Teachers enabled by Chapter 116, Article 5;
- h. The Office of the North Carolina Attorney General on behalf of any State agency when the claim has been reduced to a judgment;
- i. The State Board of Community Colleges through community colleges as enabled by Chapter 115D in the conduct of their financial affairs and operations;
- j. State facilities as listed in G.S. 122C-181(a), School for the Deaf at Morganton, North Carolina Sanatorium at McCain, Western Carolina Sanatorium at Black Mountain, Eastern North Carolina Sanatorium at Wilson, and Gravelly Sanatorium at Chapel Hill under Chapter 143, Article 7; Governor Morehead School under Chapter 115, Article 40; Central North Carolina School for the Deaf under Chapter 115, Article 41; Wright School for Treatment and Education of Emotionally Disturbed Children under Chapter 122C; and these same institutions by any other names by which they may be known in the future;
- k. The North Carolina Department of Revenue;
- l. The Administrative Office of the Courts;
- m. The Division of Forest Resources of the Department of Environment, Health, and Natural Resources;

- n. The Administrator of the Teachers' and State Employees' Comprehensive Major Medical Plan, established in Article 3 of General Statutes Chapter 135;
- o. The State Board of Education through the Superintendent of Public Instruction when in the performance of his duties of administering the Scholarship Loan Fund for Prospective Teachers enabled by Chapter 115C, Article 32A and the scholarship loan and grant programs enabled by Chapter 115C, Article 24C, Part 1;
- p. The Board of Trustees of the Teachers' and State Employees' Retirement System and the Board of Trustees of the Local Governmental Employees' Retirement System in the performance of their duties pursuant to Chapters 120, 128, 135 and 143 of the General Statutes;
- q. The North Carolina Teaching Fellows Commission in the performance of its duties pursuant to Chapter 115C, Article 24C, Part 2;
- r. The North Carolina Department of Human Resources when in the performance of its collection duties for intentional program violations and violations due to inadvertent household error under the Food Stamp Program enabled by Chapter 108A, Article 2, Part 5, and any county operating the same Program at the local level, when and only to the extent such a county is in the performance of Food Stamp Program collection functions.

The North Carolina Department of Human Resources hen, in the performance of its duties under the ~~Aid to Families with Dependent Children Program or the Aid to Families with Dependent Children -- Emergency Assistance Program provided in Part 2 of Article 2 of Chapter 108A or the Work First Cash Assistance Program established pursuant to the federal waivers received by the Department on February 5, 1996, Work First Program provided in Part 2 of Article 2 of Chapter 108A of the General Statutes~~, or under the State-County Special Assistance for Adults Program provided in Part 3 of Article 2 of Chapter 108A, it seeks to collect public assistance payments obtained through an intentional false statement, intentional misrepresentation, intentional failure to disclose a material fact, or inadvertent household error;

- s. The Employment Security Commission of North ~~Carolina~~ Carolina;
- t. Any State agency in the collection of salary overpayments from former ~~employees, employees; or~~
- u. The State Board of Education through the Superintendent of Public Instruction when in the performance of his duties of administering the program under which the State encourages participation in the National Board for Professional Teaching

Standards (NBPTS) Program, enabled by Section 19.28 of Chapter 769 of the 1993 Session Laws."

Section 12.27. G.S. 110-129(6) reads as rewritten:

"(6) 'Disposable income' means any form of periodic payment to an individual, regardless of sources, including but not limited to wages, salary, commission, self-employment income, bonus pay, severance pay, sick pay, incentive pay, vacation pay, compensation as an independent contractor, worker's compensation, unemployment compensation benefits, disability, annuity, survivor's benefits, pension and retirement benefits, interest, dividends, rents, royalties, trust income and other similar payments, which remain after the deduction of amounts for federal, State, and local taxes, Social Security, and involuntary retirement contributions. However, Supplemental Security Income, ~~Aid for Dependent Children~~, Work First Family Assistance, and other public assistance payments shall be excluded from disposable income. For employers, disposable income means 'wage' as it is defined by G.S. 95-25.2(16). Unemployment compensation benefits shall be treated as disposable income only for the purposes of income withholding under the provisions of G.S. 110-136.4, and the amount withheld shall not exceed twenty-five percent (25%) of the unemployment compensation benefits."

Section 12.28. G.S. 110-130.1 reads as rewritten:

"§ 110-130.1. ~~Non-AEDC~~ Non-Work First services.

(a) All child support collection and paternity determination services provided under this Article to recipients of public assistance shall be made available to any individual not receiving public assistance in accordance with federal law and as contractually authorized by the nonrecipient, upon proper application and payment of a nonrefundable application fee of ten dollars (\$10.00).

(b) Repealed by Session Laws 1989, c. 490.

(b1) In cases in which a public assistance debt which accrued pursuant to G.S. 110-135 remains unrecovered, support payments shall be transmitted to the Department of Human Resources for appropriate distribution. When services are terminated and all costs and any public assistance debts have been satisfied, the support payment shall be redirected to the client.

(c) Actions or proceedings to establish, enforce, or modify a duty of support or establish paternity as initiated under this Article shall be brought in the name of the county or State agency on behalf of the public assistance recipient or nonrecipient client. Collateral disputes between a custodial parent and noncustodial parent, involving visitation, custody and similar issues, shall be considered only in separate proceedings from actions initiated under this Article. The attorney representing the designated representative of programs under Title IV-D of the Social Security Act shall be deemed attorney of record only for proceedings under this Article, and not for the separate proceedings. No attorney/client relationship shall be considered to have been created between the attorney who represents the

child support enforcement agency and any person by virtue of the action of the attorney in providing the services required.

(c1) The Department is hereby authorized to use the electronic and print media in attempting to locate absent and deserting parents. Due diligence must be taken to ensure that the information used is accurate or has been verified. Print media shall be under no obligation or duty, except that of good faith, to anyone to verify the correctness of any information furnished to it by the Department or county departments of social services.

(d) Any fee imposed by the North Carolina Department of Revenue or the Secretary of the Treasury to cover their costs of withholding for ~~non-AFDC non-Work First~~ arrearages certified for the collection of past due support from State or federal income tax refunds shall be borne by the client by deducting the fee from the amount collected.

Any income tax refund offset amounts which are subsequently determined to have been incorrectly withheld and distributed to a client, and which must be refunded by the State to a responsible parent or the nondebtor spouse, shall constitute a debt to the State owed by the client."

Section 12.29. G.S. 111-21 reads as rewritten:

"§ 111-21. *Disqualifications for relief.*

No aid to needy blind persons shall be given under the provisions of this Article to any individual for any period with respect to which he is receiving aid under the laws of North Carolina providing ~~aid for dependent children Work First Family Assistance~~ and/or relief for the aged, and/or aid for the permanently and totally disabled."

SUBPART C. STATUTORY TECHNICAL AND CONFORMING CHANGES RELATING TO THE ABOLISHMENT OF THE COMMISSION ON THE FAMILY.

Section 12.30. G.S. 143-318.14A(a) reads as rewritten:

"(a) Except as provided in subsection (e) below, all official meetings of commissions, committees, and standing subcommittees of the General Assembly (including, without limitation, joint committees and study committees), shall be held in open session. For the purpose of this section, the following also shall be considered to be 'commissions, committees, and standing subcommittees of the General Assembly':

- (1) The Legislative Research Commission;
- (2) The Legislative Services Commission;
- (3) The Advisory Budget Commission;
- (4) The Joint Legislative Utility Review Committee;
- (5) The Joint Legislative Commission on Governmental Operations;
- (6) The Joint Legislative Commission on Municipal Incorporations;
- (7) ~~The Commission on the Family;~~
- (8) The Joint Select Committee on Low-Level Radioactive Waste;
- (9) The Environmental Review Commission;
- (10) The Joint Legislative Transportation Oversight Committee;
- (11) The Joint Legislative Education Oversight Committee;
- (12) The Joint Legislative Commission on Future Strategies for North Carolina;

- (13) The Commission on Children with Special Needs;
- (14) The Legislative Committee on New Licensing Boards;
- (15) The Agriculture and Forestry Awareness Study Commission;
- (16) The North Carolina Study Commission on Aging; and
- (17) The standing Committees on Pensions and Retirement."

Section 12.31. G.S. 143B-150.8 reads as rewritten:

"§ 143B-150.8. *Advisory Committee on Family-Centered Services; responsibilities.*

(a) The Advisory Committee on Family-Centered Services shall have the following responsibilities:

- (1) Provide guidance and advice to the Secretary in the development of a plan for the statewide implementation of an inter-agency family preservation services program whereby family-centered preservation services are available to all counties by July 1, 1995, through the coordinated efforts of the Division of Social Services, Division of Youth Services, and Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.
- (2) Recommend standards for:
 - a. Oversight and development of family-centered preservation services;
 - b. Development and maintenance of inter-agency training and technical assistance in the provision of family-centered services;
 - c. Professional staff qualifications, program monitoring, and data collection;
 - d. Statewide evaluation of locally-based family preservation programs;
 - e. Coordination of funding sources for family preservation programs;
 - f. Procedures for awarding grants to local agencies providing family-centered services; and
 - g. Annual reports to the Governor and the General Assembly on the services provided and achievements of the Family Preservation Services Program.
- (3) The Committee shall submit a written report not later than May 1, 1992, and not later than October 1 of each year thereafter, to the Governor, to the Joint Legislative Commission on Governmental Operations, and to the Commission on the Family. Operations. The report shall address the progress in implementation of the Family Preservation Services Program. The report shall include an accounting of funds expended and anticipated funding needs for full implementation of the program. The report shall also include the following information for each county participating in the Program and for the Program as a whole:
 - a. The number of families receiving service through the Program;
 - b. The number of children at risk of placement prior to initiation of service in families receiving Program services;

- c. Among those children in sub-subdivision b., the number of children placed in foster care, in group homes, and in other facilities outside their homes and families;
- d. The average cost of the service provided to families under the Program;
- e. The estimated cost of out-of-home placement, through foster care, group homes, or other facilities, which would otherwise have been expended on behalf of children at risk of placement who successfully remain united with their families as a result of services provided through the Program. Cost estimates should be based on average length of stay and average cost of such out-of-home placements;
- f. The number of children who remain unified with their families for one, two, and three years after receiving services under the Program; and
- g. An overall statement of the progress of the Program and local projects during the preceding year, along with recommendations for improvements.

(b) The Committee may use funds allocated to it to contract for services to monitor local projects and for an independent evaluation of the Family Preservation Services Program."

Section 12.32. Of the funds appropriated in this act to the Department of Human Resources, the sum of three million nine hundred seventy-five thousand dollars (\$3,975,000) for the 1997-98 fiscal year shall be used to establish the uniform system of recipient identification established in G.S. 108A-25.1 and to provide counties with workstations for biometric imaging.

Section 12.33. Of the funds appropriated in this act to the Department of Human Resources, the sum of twenty-five thousand dollars (\$25,000) for the 1997-98 fiscal year and the sum of forty thousand dollars (\$40,000) for the 1998-99 fiscal year shall be transferred to the General Assembly for the Joint Legislative Public Assistance Commission.

Section 12.34. Of the funds appropriated in this act to the Department of Human Resources, the sum of sixteen million dollars (\$16,000,000) for the 1997-98 fiscal year and the sum of twenty million dollars (\$20,000,000) for the 1998-99 fiscal year shall be placed in the Work First Reserve Fund established pursuant to G.S. 143-15.3C.

Section 12.35. The Department of Health and Human Services shall have the uniform system of recipient identification established in G.S. 108A-25.1 in place and operating before October 1, 1998. Except as otherwise provided in this Part, this Part is effective when it becomes law.

Requested by: Senator Martin of Guilford, Representatives Gardner, Cansler, Clary

RESERVE TO IMPLEMENT WELFARE REFORM

Section 12.36. (a) Of the funds appropriated in this act to the Office of State Budget and Management, the sum of five million seventy-five thousand two hundred two dollars (\$5,075,202) for the 1997-98 fiscal year and the sum of three million nine hundred thousand dollars (\$3,900,000) for the 1998-99 fiscal year shall be placed in a Restrictive Reserve to

Implement Welfare Reform. These funds shall be allocated from the Reserve as follows:

- (1) \$275,000 for the 1997-98 fiscal year and \$400,000 for the 1998-99 fiscal year to support the establishment of a uniform system of public assistance programs as authorized under G.S. 108A-25.1, and to provide counties with workstations for biometric imaging;
- (2) \$2,500,000 in each fiscal year to fund program integrity activities in each county;
- (3) \$500,000 for the 1997-98 fiscal year to establish and support an Office of Inspector General in the Department of Justice;
- (4) \$300,000 in each fiscal year to establish a pilot project in the Department of Labor for creation of Individual Development Accounts;
- (5) \$1,500,202 for the 1997-98 fiscal year for the following purposes:
 - a. To establish First Stop Employment Assistance in the Department of Commerce;
 - b. To expand the Labor Market Information System in the Employment Security Commission; and
 - c. To assist the Job Service Employer Committees or the Workforce Development Boards in their completion of the study of the working poor.

Funds shall not be allocated under this subdivision unless and until the Office of State Budget and Management has certified that federal funds are not available for these purposes; and

- (6) \$700,000 for the 1998-99 fiscal year for the continued support of the Office of Inspector General in the Department of Justice, and for the First Stop Employment Assistance in the Department of Commerce. These funds shall be allocated by the Office of State Budget and Management on the basis of need.
- (b) This section becomes effective July 1, 1997.

PART XIII. HOUSING FINANCE AGENCY

Requested by: Representatives Mitchell, Baker, Carpenter, H. Hunter, Senator Martin of Pitt

HOME PROGRAM MATCHING FUNDS

Section 13. (a) Funds appropriated in this act to the Housing Finance Agency for the federal HOME Program shall be used to match federal funds appropriated for the HOME Program. In allocating State funds appropriated to match federal HOME Program funds, the Agency shall give priority to HOME Program projects, as follows:

- (1) First priority to projects that are located in counties designated as Tier One, Tier Two, or Tier Three Enterprise Counties under G.S. 105-129.3; and
- (2) Second priority to projects that benefit persons and families whose incomes are fifty percent (50%) or less of the median family income for the local area, with adjustments for family size, according to the latest figures available from the U.S. Department of Housing and Urban Development.

The Housing Finance Agency shall report to the Joint Legislative Commission on Governmental Operations by April 1 of each year concerning the status of the HOME Program and shall include in the report information on priorities met, types of activities funded, and types of activities not funded.

(b) If the United States Congress changes the HOME Program such that matching funds are not required for a given program year, then the Agency shall not spend the matching funds appropriated under this act for that program year.

(c) Funds appropriated in this act to match federal HOME Program funds shall not revert to the General Fund on June 30, 1998, or on June 30, 1999.

PART XIV. DEPARTMENT OF AGRICULTURE

Requested by: Senator Martin of Pitt, Representatives Mitchell, Baker, Carpenter

MOUNTAIN STATE FAIR TO BECOME ENTERPRISE FUND

Section 14. The activities of the Western North Carolina Agricultural Center and the Mountain State Fair shall be combined and operated in an enterprise fund. Current appropriated support to the Western North Carolina Agricultural Center shall be transferred on a quarterly basis with the anticipation that appropriated support will only be necessary until the combined operation develops sufficient revenue and operating reserves to become totally self-supporting.

Requested by: Senator Martin of Pitt, Representatives Mitchell, Baker, Carpenter

TIMBER SALES FOR MAINTENANCE OF STATE FARMS FORESTLAND

Section 14.1. The Department of Agriculture and Consumer Services is authorized to expend up to one hundred thousand dollars (\$100,000) each year for forestry management from funds received from the sale of timber that are deposited with the State Treasurer in a capital improvement account pursuant to G.S. 146-30. The Director of the Budget is authorized to transfer up to one hundred thousand dollars (\$100,000) from the capital improvement account to the Reserve for Forestry Management in the Department's operating budget and to prepare succeeding continuation budget documents to include one hundred thousand dollars (\$100,000) in the Reserve for Forestry Management.

Requested by: Representatives Mitchell, Baker, Carpenter, Fox; Senators Martin of Pitt, Jenkins, Shaw of Guilford

TRANSFER MARITIME MUSEUM TO CULTURAL RESOURCES

Section 14.2. The North Carolina Maritime Museum, all funds appropriated by the General Assembly for the museum, and all resources and personnel provided for the museum by the Department of Agriculture and Consumer Services are transferred from the Department of Agriculture and Consumer Services to the Department of Cultural Resources. This

transfer shall have all of the elements of a Type I transfer, as that term is defined in G.S. 143A-6(a). Where a conflict arises in connection with the transfer, the transfer shall be resolved by the Governor, and the decision of the Governor shall be final.

Requested by: Senator Martin of Pitt, Representatives Mitchell, Baker, Carpenter

WESTERN NORTH CAROLINA DEVELOPMENT ASSOCIATION

Section 14.3. The Western North Carolina Development Association shall:

- (1) By January 15, 1998, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
 - a. State fiscal year 1996-97 program activities, objectives, and accomplishments;
 - b. State fiscal year 1996-97 itemized expenditures and fund sources;
 - c. State fiscal year 1997-98 planned activities, objectives, and accomplishments, including actual results through December 31, 1997; and
 - d. State fiscal year 1997-98 estimated itemized expenditures and fund sources, including actual expenditures and fund sources through December 31, 1997.
- (2) By January 15, 1999, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
 - a. State fiscal year 1997-98 program activities, objectives, and accomplishments;
 - b. State fiscal year 1997-98 itemized expenditures and fund sources;
 - c. State fiscal year 1998-99 planned activities, objectives, and accomplishments, including actual results through December 31, 1998; and
 - d. State fiscal year 1998-99 estimated itemized expenditures and fund sources, including actual expenditures and fund sources through December 31, 1998.
- (3) Provide a copy of the Association's annual audited financial statement to the Fiscal Research Division within 30 days of issuance of the statement.

Requested by: Senators Martin of Pitt, Kerr, Representatives Mitchell, Baker, Carpenter

INCREASE GRAPE GROWERS FUNDS

Section 14.4. G.S. 105-113.81A reads as rewritten:

"§ 105-113.81A. Distribution of part of wine taxes attributable to North Carolina wine.

The Secretary shall on a quarterly basis credit to the Department of Agriculture and Consumer Services ninety-four percent (94%) of the net proceeds of the excise tax collected on unfortified wine bottled in North

Carolina during the previous quarter and ninety-five percent (95%) of the net proceeds of the excise tax collected on fortified wine bottled in North Carolina during the previous quarter, ~~provided~~ except that the amount credited to the Department of Agriculture and Consumer Services under this section shall not exceed ~~ninety~~ one hundred fifty thousand dollars ~~(\$90,000)~~ (\$150,000) per fiscal year. The Department of Agriculture and Consumer Services shall allocate the funds received under this section to the North Carolina Grape Growers Council to be used to promote the North Carolina grape and wine industry and to contract for research and development services to improve viticultural and enological practices in North Carolina. Any funds credited to the Department of Agriculture and Consumer Services under this section that are not expended by June 30 of any fiscal year may not revert to the General Fund, but shall remain available to the Department for the uses set forth in this section."

Requested by: Senator Martin of Pitt, Representatives Mitchell, Baker, Carpenter, H. Hunter

AUTHORIZE THE AGRICULTURAL FINANCE AUTHORITY TO USE THE INTEREST FROM THE RESERVE FOR FARM LOANS FOR ADMINISTRATIVE EXPENSES

Section 14.5. G.S. 122D-16 reads as rewritten:

"§ 122D-16. *Trust funds.*

(a) Notwithstanding any other provisions of law to the contrary, all moneys received pursuant to the authority of this Chapter shall be deemed to be trust funds to be held and applied solely as provided in this Chapter. Interest earned from these moneys and interest received from loans made from these moneys may be used for any purpose set out in this Chapter and for the costs of administering this Chapter. The resolution authorizing any obligations or the trust agreement securing ~~the same~~ any obligations may provide that any of ~~such~~ these moneys may be temporarily invested pending the disbursement ~~thereof~~ of the moneys and shall provide that any officer with whom, or any bank or trust company with which, such moneys shall be deposited, shall act as trustee of ~~such~~ the moneys and shall hold and apply the ~~same~~ moneys for the purposes ~~hereof~~, under this Chapter, subject to ~~such regulations as this Chapter and such resolution or trust agreement may provide.~~ any rules adopted pursuant to this Chapter and any provisions in the provision or trust agreement. ~~Any such moneys or any other~~

(b) All moneys of the Authority may be invested in the following:

- (1) Bonds, notes or treasury bills of the United States;
- (2) Non-convertible debt securities of the following issuers:
 - a. The Federal Home Loan Bank Board;
 - b. The Federal National Mortgage Association;
 - c. The Federal Farm Credit Bank; and
 - d. The Student Loan Marketing Association;
- (3) Any other obligations not listed above which are guaranteed as to principal and interest by the United States or any of its agencies;
- (4) Certificates of deposit and other evidences of deposit at state and federal chartered banks and savings and loan associations; provided that any principal amount of such certificate in excess of the

amount insured by the federal government or any agency thereof be fully collateralized;

- (5) Obligations of the United States or its agencies under a repurchase agreement for a shorter time than the maturity date of the security itself if the market value of the security itself is more than the amount of funds invested;
- (6) Money market funds whose portfolios consist of any of the foregoing investments;
- (7) A guaranteed investment or similar contract, which provides for the investment of funds at a guaranteed rate of return, with an insurance company or depository financial institution with a claim paying rating of no less than either of the two highest grades given by a nationally recognized rating agency; and
- (8) Any other investment authorized by law for the investment of funds by a unit of local government."

Requested by: Representatives Mitchell, Baker, Carpenter, Fox, Owens, Senators Martin of Pitt, Jenkins, Shaw of Guilford

DEPARTMENTS OF AGRICULTURE AND CONSUMER SERVICES/COMMERCE/LABOR/AND ENVIRONMENT, HEALTH, AND NATURAL RESOURCES/RECEIPT SUPPORTED POSITIONS

Section 14.6 (a) The Department of Agriculture and Consumer Services, the Department of Commerce, the Department of Environment, Health, and Natural Resources, and the Department of Labor shall by October 15, 1997, and semiannually thereafter, report to the Joint Legislative Commission on Governmental Operations, the Appropriations Subcommittees on Natural and Economic Resources in both the House of Representatives and the Senate, and the Fiscal Research Division regarding the creation of new receipt-supported positions created within each Department. The report shall include the following information for each new position created with receipts:

- (1) The Commission, Division, program or office in which the position is created.
- (2) The position title or classification.
- (3) The salary.
- (4) The funding source.
- (5) An explanation of the position responsibilities and the justification for the position.
- (6) The designation of the position as full-time, part-time, and if time-limited, the length of time that the position is anticipated to be required.

(b) The Department of Agriculture and Consumer Services, the Department of Commerce, the Department of Environment, Health, and Natural Resources, and the Department of Labor shall abolish any receipt-supported position upon approval of the Office of State Budget and Management if: (i) the position is vacant for more than one calendar year, and (ii) receipts are insufficient to adequately fund the positions.

The Department of Agriculture and Consumer Services, the Department of Commerce, the Department of Environment, Health, and Natural

Resources, and the Department of Labor shall by October 15, 1997, and semiannually thereafter, report to the Joint Legislative Commission on Governmental Operations, the Appropriations Subcommittees on Natural and Economic Resources in both the House of Representatives and the Senate, and the Fiscal Research Division regarding any receipt-supported positions that are abolished and shall justify any position that is vacant for a calendar year or longer and is not abolished.

Requested by: Representatives Tolson, Arnold, Senator Martin of Pitt
EASTERN NORTH CAROLINA LIVESTOCK ARENA FUNDS

Section 14.7. Section 94 of Chapter 561 of the 1993 Session Laws reads as rewritten:

"Sec. 94. (a) ~~The seven hundred thousand dollars (\$700,000) appropriated in Section 4 of Chapter 1014 of the 1985 Session Laws and allocated in Section 158(b) of Chapter 1014 of the 1985 Session Laws, as amended by Section 137(a) of Chapter 738 of the 1987 Session Laws, Section 154 of Chapter 1086 of the 1987 Session Laws, and Section 34 of Chapter 1100 of the 1987 Session Laws, to the Rocky Mount Business Development Authority for the agricultural complex located at Fountain Park in Section 137(a) of Chapter 738 of the 1987 Session Laws, as amended by Section 154 of Chapter 1086 of the 1987 Session Laws and Section 34 of Chapter 1100 of the 1987 Session Laws, the sum of seven hundred thousand dollars (\$700,000) may be loaned to a city which is located in two counties so as to allow that city to establish a Farmer's Market in the vicinity of the old Fenner's Warehouse No. 1 on the North Church Street corridor.~~

~~(b) This no-interest loan shall be repaid by the city to the Rocky Mount Business Development Authority (RMBDA) over the next seven years at the rate of one hundred thousand dollars (\$100,000) per year or at a rate necessary to support the cash flow requirement for planning and constructing a processing facility at Fountain Park.~~

~~(c) The Rocky Mount Business Development Authority (RMBDA) shall provide a grant of all interest accrued to date, less expenses, on the seven hundred thousand dollar (\$700,000) appropriation to the Rocky Mount/Edgecombe Community Development Corporation (RMECDC) for the South Washington Street Revitalization Project.~~

~~(d) The City of Rocky Mount shall organize the Rocky Mount Business Development Authority (RMBDA) such that the Authority assists in planning and construction of a vegetable and fruit processing facility in Fountain Park before January 1, 2001. This processing facility shall have the capability to, at least: cool, wash, wax, grade, sort, package, and store for transit the commercial produce of local farm families. The facility shall provide facilities for unloading harvested farm fruits and vegetables, loading surface transport with packaged fruits and vegetables, and supporting brokerage operations. RMBDA may use the funds repaid to it under subsection (b) of this section for the purposes of this subsection. Park, shall be allocated as follows:~~

- ~~(1) \$225,000 to the Rocky Mount Business Development Authority,~~
and

- (2) The remaining funds, plus all interest accrued, for the construction of a facility to replace the Eastern North Carolina Livestock Arena. This facility shall be used for horse- and swine-breeding stock auctions, for cattle sales, and for functions of the Future Farmers of America and 4-H Clubs."

Requested by: Representatives Mitchell, Baker, Carpenter, Fox, Brown, H. Hunter, Senators Martin of Pitt, Jenkins, Shaw of Guilford

ASSISTANCE FOR SMALL, FAMILY FARMS

Section 14.8. Of the funds appropriated in this act to the Department of Agriculture and Consumer Services for the 1997-98 fiscal year, the sum of fifty thousand dollars (\$50,000) shall be used to provide assistance to farmers who operate small, family farms. By March 1, 1998, the Department shall report to the Joint Legislative Commission on Governmental Operations, the Appropriations Subcommittees on Natural and Economic Resources in both the House of Representatives and the Senate, and the Fiscal Research Division on the use of these funds, including the number and geographic location of the small, family farms assisted through this allocation of funds, the type of assistance provided, and any other information or indicators that demonstrate the overall impact of this allocation of funds.

Requested by: Representatives Mitchell, Baker, Carpenter, Fox, Senators Martin of Pitt, Jenkins, Shaw of Guilford

SOUTHERN DAIRY COMPACT COMMISSION FUNDS

Section 14.9. (a) Of the funds appropriated in this act to the Department of Agriculture and Consumer Services, the sum of twenty-five thousand dollars (\$25,000) for the 1997-98 fiscal year and the sum of twenty-five thousand dollars (\$25,000) for the 1998-99 fiscal year shall be used to support the Southern Dairy Compact Commission.

(b) The allocation of funds under subsection (a) of this section is contingent upon the enactment of House Bill 998 of the 1997 Session of the General Assembly, Senate Bill 977 of the 1997 Session of the General Assembly, or substantially similar legislation that creates the Southern Dairy Compact Commission.

PART XV. DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

Requested by: Representatives Mitchell, Baker, Carpenter, H. Hunter, Senator Martin of Pitt

ENVIRONMENTAL EDUCATION GRANTS

Section 15. (a) Of the funds appropriated in this act to the Department of Environment, Health, and Natural Resources, the sum of two hundred thousand dollars (\$200,000) for the 1997-98 fiscal year shall be used to provide grants to promote environmental education throughout the State. Grants under this section may be awarded to:

- (1) Schools, community organizations, and environmental education centers for the development of environmental education library collections; or
- (2) School groups for field trips to environmental education centers across the State, provided the activities of the field trip are correlated with the Department of Public Instruction's curriculum objectives.

(b) The Department shall report to the Joint Legislative Commission on Governmental Operations, the Environmental Review Commission, and the Fiscal Research Division by January 1, 1998, and again by July 1, 1998, on the grant program. The report shall include a list of amounts awarded and project descriptions for each grant recipient.

Requested by: Senator Martin of Pitt, Representative Mitchell
GRASSROOTS SCIENCE PROGRAM

Section 15.1. Funds appropriated in this act for the Grassroots Science Program shall be allocated as grants-in-aid as follows:

	1997-98	1998-99
Iredell County Children's Museum	\$56,500	\$50,000
Museum of Coastal Carolina	\$66,750	\$50,000
Rocky Mount Children's Museum	\$109,750	\$50,000
Imagination Station	\$111,000	\$50,000
Western North Carolina Nature Center	\$130,750	\$15,000
The Health Adventure Museum of Pack Place Education, Arts and Science Center, Inc.	\$162,500	\$35,000
Cape Fear Museum	\$188,500	\$50,000
Catawba Science Center	\$190,500	\$50,000
Sci Works Science Center and Environmental Park of Forsyth County	\$231,000	\$50,000
Natural Science Center of Greensboro	\$333,000	\$50,000
Schicle Museum of Natural History	\$383,750	\$50,000
North Carolina Museum of Life and Science	\$398,750	\$50,000
Discovery Place	\$887,250	\$50,000
TOTAL	\$3,250,000	\$600,000

Discovery Place may use up to one hundred thousand dollars (\$100,000) of the funds allocated to it in the 1997-98 fiscal year to study the feasibility of an expansion of Discovery Place.

Requested by: Senator Martin of Pitt, Representatives Mitchell, Baker, Carpenter, H. Hunter

ANIMAL WASTE COMPLIANCE PROGRAM REPORT

Section 15.2. (a) No later than October 15, 1997, and quarterly thereafter, the Department of Environment, Health, and Natural Resources

shall submit status reports to the Environmental Review Commission and the Fiscal Research Division. Each report shall include, but not be limited to:

- (1) The number of permits for animal waste management systems, itemized by type of animal subject to such permits, issued since the last report and a total for that calendar year.
- (2) The number of operations reviews of animal waste management systems that the Division of Soil and Water Conservation has conducted since the last report and a total for that calendar year.
- (3) The number of operations reviews of animal waste management systems conducted by agencies other than the Division of Soil and Water Conservation that have been conducted since the last report and a total for that calendar year.
- (4) The number of reinspections associated with operations reviews conducted by the Division of Soil and Water Conservation since the last report and a total for that calendar year.
- (5) The number of reinspections associated with operations reviews conducted by agencies other than the Division of Soil and Water Conservation since the last report and a total for that calendar year.
- (6) The number of compliance inspections of animal waste management systems that the Division of Water Quality has conducted since the last report and a total for that calendar year.
- (7) The number of follow-up inspections associated with compliance inspections conducted by the Division of Water Quality since the last report and a total for that calendar year.
- (8) The average length of time for each category of reviews and inspections under subdivisions (2) through (7) of this subsection.
- (9) The number of violations found during each category of review and inspection under subdivisions (2) through (7) of this subsection, the status of enforcement actions taken and pending, and the penalties imposed, collected, and in the process of being negotiated for each such violation.

(b) The information to be included in the reports pursuant to subsection (a) of this section shall be itemized by each regional office of the Department, with totals for the State indicated.

Requested by: Representative Mitchell, Senators Albertson, Plyler
ANIMAL WASTE MANAGEMENT SYSTEM GENERAL PERMIT REVISIONS/PILOT PROGRAM FOR ANIMAL OPERATIONS ANNUAL INSPECTIONS

Section 15.3. (a) The interagency group created in Section 18 of Chapter 626 of the 1995 Session Laws and the Department of Environment, Health, and Natural Resources shall, by October 1, 1997, cooperatively revise the general permits for animal waste management systems that were previously developed by the Department and accordingly revise the proposed time schedule for issuing these general permits. The provisions of the revised general permits shall be more flexible for the farmer and more practical for the farmer to implement and shall not conflict with the site-specific certified animal waste management plans. The interagency group

and the Department may refer to House Bill 357 of the 1997 Regular Session of the General Assembly for guidance in determining the issues that need to be addressed in the revision process. By October 1, 1997, the interagency group and the Department shall submit a joint report of the revised general permits and the revised time schedule for issuing these permits to the Environmental Review Commission.

(b) Subsection (c) of Section 19 of Chapter 626 of the 1995 Session Laws reads as rewritten:

"(c) (1) G.S. 143-215.10C, as enacted by Section 1 of this act, becomes effective January 1, 1997. In order to ensure an orderly and cost-effective phase-in of the permit program, the Department of Environment, Health, and Natural Resources shall issue permits for animal operations over a five-year period. The Subject to subdivision (5) of this subsection, the Department shall issue permits for approximately twenty percent (20%) of the animal waste management facilities that are in operation on January 1, 1997, during each of the five calendar years beginning January 1, 1997, and shall give priority to those animal waste management systems serving the largest animal operations. An animal waste management system that is deemed permitted by rule on January 1, 1997, under 15A N.C.A.C. 2H.0217 may continue to operate on a deemed permitted basis as provided in subsection (b) of this section. subdivision (2) of this subsection.

- (2) In accordance with its phase-in schedule, the Department shall notify each owner or operator of an animal waste management system that is deemed permitted of the date by which an application for a permit for that animal waste management system shall be submitted by certified mail. An owner or operator of an animal waste management system who fails to submit an application for a permit by the date specified by the Department shall not operate the animal waste management system after that date. An animal waste management system that is authorized to continue operation under this section and for which a timely application for a permit is submitted may continue to operate on a deemed permitted basis until the Department either issues a permit or notifies the owner or operator that the application for a permit is denied. An animal waste management system that is deemed permitted shall be subject to the annual operational review and annual inspection requirements as though it were permitted.
- (3) The Department shall act on an application for a permit for a new facility or for the expansion of an existing facility within 90 days after the Department receives the application.
- (4) Notwithstanding G.S. 143-215.10C (a) through (d), a dry litter animal waste management system involving 30,000 or more birds shall continue to operate on a deemed permitted basis by rule under 15A N.C.A.C. 2H.0217 and shall comply with the

animal waste management plan testing and record-keeping requirements by January 1, 1998, 2000.

- (5) Animal waste management systems for dairy facilities that are constructed or expanded on or after January 1, 1998, shall be required to obtain a permit in accordance with G.S. 143-215.10C prior to the construction or expansion. An animal waste management system for any dairy facility in operation before January 1, 1998, shall continue to be deemed permitted under 15A N.C.A.C. 2H.0217 so long as both of the following are satisfied:

- a. That facility obtains a certified animal waste management plan by December 31, 1997, or the operator of that facility and the Environmental Management Commission enter into a special agreement pursuant to Section 14(b) of Chapter 626 of the 1995 Session Laws.
- b. That facility remains in compliance with the certified animal waste management plan or the special agreement, whichever applies.

The Department shall issue permits for approximately twenty percent (20%) of the animal waste management systems for dairy facilities in operation before January 1, 1998, during each of the five calendar years beginning January 1, 1999, and shall give priority to those animal waste management systems serving the largest dairies. An animal waste management system for a dairy facility in operation before January 1, 1998, that is deemed permitted by rule under 15A N.C.A.C. 2H.0217 may continue to operate on a deemed permitted basis as provided in this subdivision and subdivision (2) of this subsection."

- (c) After the revised general permits are adopted, the Department shall issue the revised general permit to all animal waste management operations currently holding general permits.

Section 15.4. (a) The Department of Environment, Health, and Natural Resources shall develop and implement a pilot program to begin no later than November 1, 1997, and to terminate October 31, 1998, regarding the annual inspections of animal operations that are subject to a permit under Part 1A of Article 21 of Chapter 143 of the General Statutes. The Department shall select two counties located in a part of the State that has a high concentration of swine farms to participate in this pilot program. Notwithstanding G.S. 143-215.10F, the Division of Soil and Water Conservation shall conduct inspections of all animal operations that are subject to a permit under Part 1A of Article 21 of Chapter 143 of the General Statutes in these two counties at least once a year to determine whether any animal waste management system is causing a violation of water quality standards and whether the system is in compliance with its animal waste management plan or any other condition of the permit. The personnel of the Division of Soil and Water Conservation who are to conduct these inspections in each of these two counties shall be located in an office in the county in which that person will be conducting inspections. As part of this

pilot program, the Department of Environment, Health, and Natural Resources shall establish procedures whereby resources within the local Soil and Water Conservation Districts serving the two counties are used for the quick response of complaints and reported problems previously referred only to the Division of Water Quality.

(b) The Division of Soil and Water Conservation of the Department of Environment, Health, and Natural Resources and the Division of Water Quality of the Department of Environment, Health, and Natural Resources jointly shall submit an interim report no later than April 15, 1998, and a final report no later than December 1, 1998, to the Environmental Review Commission and to the Fiscal Research Division. These reports shall indicate whether the pilot program has increased the effectiveness of the annual inspections program or the response to complaints and reported problems, specifically whether the pilot program had resulted in identifying violations earlier, taking corrective actions earlier, increasing compliance with the animal waste management plans and permit conditions, improving the time to respond to discharges, complaints, and reported problems, improving communications between farmers and Department employees, and any other consequences deemed pertinent by the Department. The final report shall include a recommendation as to whether to continue or expand the pilot program under this section. The Environmental Review Commission may recommend to the 1998 Regular Session of the 1997 General Assembly or to the 1999 General Assembly whether to continue or expand the pilot program under this section and may make any related legislative proposals.

Requested by: Senators Martin of Pitt, Jenkins, Shaw of Guilford, Representatives Mitchell, Baker, Carpenter, Fox

SOUTH MOUNTAINS GAMELANDS FUNDS

Section 15.5. Of the funds appropriated in this act to the Wildlife Resources Commission, the sum of five million dollars (\$5,000,000) for the 1997-98 fiscal year shall be used to assist in the acquisition of gamelands for hunting, fishing, outdoor recreation, and conservation in the South Mountains. The Wildlife Resources Commission may use and seek additional funds from the Wildlife Endowment Fund established in G.S. 143-250.1, private citizens, private nonprofit conservation organizations, the Clean Water Management Trust Fund established in Article 13A of Chapter 113 of the General Statutes, the Natural Heritage Trust Fund established in Article 5A of Chapter 113 of the General Statutes, and local governments to acquire gamelands in the South Mountains. The Wildlife Resources Commission shall work with citizens and local governments to develop and execute both a wildlife management plan and a forest management plan for its gamelands in the South Mountains.

Requested by: Senator Plyler, Representatives Mitchell, Baker, Carpenter

ODOR CONTROL STUDY FUNDS

Section 15.6. Of the funds appropriated to the Department of Environment, Health, and Natural Resources for the 1996-97 fiscal year and transferred to the Board of Governors of The University of North Carolina

for the North Carolina Agricultural Research Service at North Carolina State University for research into economically feasible odor control technologies and for a detailed economic analysis of odor management alternatives, the sum of six hundred thousand dollars (\$600,000) shall not revert to the General Fund on June 30, 1997. These funds shall remain in the budget of North Carolina State University for expenditure by the North Carolina Agricultural Research Service during the 1997-98 fiscal year. These funds may be used for capital expenditures to construct current technology swine production facilities for the purpose of research in adapting or developing new odor control technologies. The use of these funds for capital expenditures shall be authorized without any requirement of matching funds from private sources.

Requested by: Senator Martin of Pitt, Representatives Mitchell, Baker, Carpenter

FUNDS FOR VOLUNTARY REMEDIAL ACTIONS

Section 15.7. (a) During the 1997-99 fiscal biennium, the Secretary of Environment, Health, and Natural Resources may contribute from the Inactive Hazardous Sites Cleanup Fund up to ten percent (10%) of the cost each fiscal year, not to exceed fifty thousand dollars (\$50,000) per site, of implementing a voluntary remedial action program at up to three high-priority sites that substantially endanger public health or the environment.

(b) No later than April 1 of each year of the 1997-99 fiscal biennium, the Department of Environment, Health, and Natural Resources shall report to the General Assembly. Each report shall contain the location of the sites for which a voluntary remedial action program was implemented under subsection (a) of this section, the rationale for the State contributing to the cost of that remedial action, and the amount of the contribution made from the Inactive Hazardous Sites Cleanup Fund.

Requested by: Senator Martin of Pitt, Representatives Mitchell, Baker, Carpenter, H. Hunter

POLLUTION PREVENTION AND ENVIRONMENTAL ASSISTANCE TO SMALL BUSINESSES WITH NEED

Section 15.8. The Division of Pollution Prevention and Environmental Assistance shall, to the extent feasible, give greatest priority to small businesses that can demonstrate financial need when the Division of Pollution Prevention and Environmental Assistance awards grants or otherwise provides technical or financial assistance.

Requested by: Senator Martin of Pitt, Representatives Mitchell, Baker, Carpenter

PERMIT INFORMATION CENTER

Section 15.9. The Department of Environment, Health, and Natural Resources may use any available funds to operate a permit information center within the Department to improve permit applications, guidance materials, applicant and citizen training, and for other related purposes.

Requested by: Senator Martin of Pitt, Representatives Mitchell, Baker, Carpenter

AGRICULTURE WASTE RESEARCH REPORTS

Section 15.10. The Primary Investigator or Researcher receiving funding from the State pursuant to Section 2 of Chapter 18 of the Session Laws of the 1996 Second Extra Session for each of the following research projects and studies shall provide a progress report to the Environmental Review Commission, the Joint Legislative Commission on Governmental Operations, the Scientific Advisory Council on Water Resources and Coastal Fisheries Management, and the Fiscal Research Division on January 1 and July 1 of each year until the project or study is complete:

- (1) Odor control technology.
- (2) Sources of nitrogen through isotope markers.
- (3) Groundwater impacts of lagoons.
- (4) Atmospheric deposition of nitrogen in the Neuse Estuary.
- (5) Alternative animal waste technologies.

Upon completion of the project or study, the Primary Investigator or Researcher shall provide a final report.

Requested by: Senator Martin of Pitt, Representatives Mitchell, Baker, Carpenter

TOWN FORK CREEK SOIL CONSERVATION PROJECT

Section 15.11. (a) The funds placed in a reserve account in the Department of Environment, Health, and Natural Resources pursuant to Section 26.3(c) of Chapter 507 of the 1995 Session Laws shall not revert until June 30, 1999. Those funds are reallocated as follows:

- (1) Five hundred four thousand five hundred sixty dollars (\$504,560) to the Stokes County Water and Sewer Authority, Inc., for the Germanton Water Project.
- (2) Nine hundred thirty thousand six hundred eighty dollars (\$930,680) to the Stokes County Water and Sewer Authority, Inc., for the Madison Connection Project.
- (3) Eighty thousand dollars (\$80,000) to the Stokes County Water and Sewer Authority, Inc., for the Dan River Project.
- (4) Thirty thousand dollars (\$30,000) to the Department of Environment, Health, and Natural Resources for the Limestone Creek small watershed project in Duplin County.
- (5) Three hundred forty thousand six hundred forty dollars (\$340,640) to the Department of Environment, Health, and Natural Resources for the Deep Creek small watershed project in Yadkin County.

(b) The Department of Environment, Health, and Natural Resources and the Stokes County Water and Sewer Authority, Inc., shall report by October 1 and March 1 of each fiscal year to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division of the General Assembly, and the Office of State Budget and Management regarding the use of the funds reallocated by this section. Each report shall include all of the following:

- (1) The estimated cost of each project.
- (2) The date that work on each project began or is expected to begin.

- (3) The date that work on each project was completed or is expected to be completed.
- (4) The actual cost of each project.

Requested by: Representatives Mitchell, Baker, Carpenter, Senator Martin of Pitt

SUPERFUND PROGRAM/INACTIVE HAZARDOUS SITES FUNDS

Section 15.12. (a) The Department of Environment, Health, and Natural Resources may use available funds, with the approval of the Office of State Budget and Management, to provide the ten percent (10%) cost share required for Superfund cleanups on the National Priority List sites, to pay the operating and maintenance costs associated with these Superfund cleanups, and for the cleanup of priority inactive hazardous substance or waste disposal sites under Part 3 of Article 9 of Chapter 130A of the General Statutes. These funds may be in addition to those appropriated for this purpose.

(b) The Department of Environment, Health, and Natural Resources and the Office of State Budget and Management shall report to the Environmental Review Commission and the Joint Legislative Commission on Governmental Operations the amount and the source of the funds used pursuant to subsection (a) of this section within 30 days of the expenditure of these funds.

Requested by: Senators Odom, Perdue, Plyler

ROANOKE/PAMLICO WATER QUALITY FUNDS

Section 15.13. Of the funds appropriated to the Department of Environment, Health, and Natural Resources by this act for the 1997-98 fiscal year, the sum of four hundred thousand dollars (\$400,000) shall be used to establish a water quality monitoring program for the Roanoke-Pamlico estuary system. The Department of Environment, Health, and Natural Resources may enter into contracts for the provision of services for the water quality monitoring program.

Requested by: Senator Martin of Pitt

RESERVE FOR CAPE FEAR RIVER FUNDS

Section 15.14. (a) Of the funds appropriated to the Department of Environment, Health, and Natural Resources in this act, the sum of one million five hundred thousand dollars (\$1,500,000) for the 1997-98 fiscal year shall be placed in a reserve for the Cape Fear River Assembly, Inc., to be used for programs to monitor and improve water quality in the Cape Fear River.

(b) The Cape Fear River Assembly, Inc., shall report by 1 October 1997 and quarterly thereafter to the Environmental Review Commission and the Joint Legislative Commission on Governmental Operations on the proposed use of any reserve funds prior to encumbering those funds for that use and on the subsequent use of any reserve funds. After the Cape Fear River Assembly, Inc., reports a proposed use to the Joint Legislative Commission on Governmental Operations and the Office of State Budget and

Management approves the distribution of funds, the Department shall distribute the funds from the reserve for that use.

Requested by: Senators Odom, Perdue, Plyler

REGIONAL WASTEWATER MANAGEMENT

Section 15.15. (a) Of the funds appropriated to the Department of Environment, Health, and Natural Resources by this act, the sum of eight hundred fifty thousand dollars (\$850,000) for the 1997-98 fiscal year shall be allocated for costs associated with further development of a regional wastewater collection, treatment, and disposal system that uses an innovative technology to reduce nutrient and organic loadings to surface waters and the sum of one hundred fifty thousand dollars (\$150,000) shall be allocated for wastewater infrastructure in Union County.

(b) The Department of Environment, Health, and Natural Resources shall report by April 1, 1998, regarding the use of the funds allocated under this section. The report shall be made to the Joint Legislative Commission on Governmental Operations and to the Environmental Review Commission. A written copy of the report shall be provided to the Fiscal Research Division of the General Assembly.

Requested by: Senator Martin of Pitt, Representatives Mitchell, Baker, Carpenter, Fox

EVALUATE SEPTIC TANKS IN THE NEUSE RIVER BASIN/ENVIRONMENTAL REVIEW COMMISSION STUDY BEST MANAGEMENT PRACTICES FOR SEPTIC TANK SYSTEMS

Section 15.16. (a) Of the funds appropriated to the Department of Environment, Health, and Natural Resources in this act, the sum of one hundred fifty thousand dollars (\$150,000) for the 1997-98 fiscal year shall be used to evaluate septic tanks in the Neuse River Basin. This evaluation shall include all of the following:

- (1) The number of septic tanks.
- (2) The condition of the septic tanks.
- (3) Any potential groundwater contamination from malfunctioning septic tank systems.
- (4) The impact of hurricane damage and flooding on septic tank systems.
- (5) The cost to repair or replace failing septic tanks.
- (6) Any viable alternatives to septic tanks.

(b) No later than October 1, 1998, the Department shall report its findings on septic tanks to the Environmental Review Commission, the Fiscal Research Division, and the Joint Legislative Commission on Governmental Operations. The Environmental Review Commission shall report its findings and recommendations to the General Assembly on the first day of the 1999 Regular Session of the 1999 General Assembly.

(c) The Environmental Review Commission shall study the development of guidelines for best management practices for septic tank systems for both the installation of new septic tank systems and the replacement or improvement of existing septic tank systems that supplement any rules governing septic tank systems that are adopted by the Commission for Health

Services, including standards for devices and practices relating to septic tank installation, operation, maintenance, and repair. The Environmental Review Commission shall consider the use of incentives, including tax credits, that could be implemented to encourage the use of best management practices for septic tank systems. The Environmental Review Commission shall submit its legislative recommendations resulting from this study to the 1997 General Assembly, 1998 Regular Session. The Environmental Review Commission shall make specific recommendations regarding filters or other devices designed to improve the efficiency of septic tank systems and risers or other devices designed to facilitate pumping. As used in this section, the phrase "devices and practices" includes, but is not limited to:

- (1) Filters or other devices designed to improve the efficiency of septic tank systems.
- (2) Risers or other devices designed to facilitate pumping.
- (3) Electronic warning devices that signal when the solid or liquid waste in the system has reached a level such that the septic tank needs to be pumped.
- (4) Alternative and innovative systems for improved wastewater treatment and disposal.
- (5) Any other approved technology or practice that demonstrates improved efficiency for septic systems.

Requested by: Senators Odom, Perdue, Plyler

MONITOR COASTAL WATER QUALITY

Section 15.17. (a) Article 8 of Chapter 130A of the General Statutes is amended by adding a new Part to read:

"Part 3A. Monitor Water Quality of Coastal Fishing Waters.

"§ 130A-233. Definitions.

The following definitions apply to this Part:

- (1) Coastal fishing waters, as defined in G.S. 113-129(4).**
- (2) Inland fishing waters, as defined in G.S. 113-129(9).**

"§ 130A-233.1. Monitoring program for State coastal fishing waters; development and implementation of program.

For the protection of the public health of swimmers and others who use the State's coastal fishing waters for recreational activities, the Department shall develop and implement a program to monitor the State's coastal fishing waters for contaminants. The monitoring program shall cover all coastal fishing waters up to the point where those waters are classified as inland fishing waters."

(b) Of the funds appropriated by this act to the Department of Environment, Health, and Natural Resources, the sum of three hundred ninety-seven thousand sixty-six dollars (\$397,066) for the 1997-98 fiscal year and the sum of three hundred thirty-seven thousand five hundred sixty-six dollars (\$337,566) for the 1998-99 fiscal year shall be allocated to the Shellfish Sanitation Branch to develop and implement the monitoring program required by this section.

Requested by: Senator Martin of Pitt

REISSUE CERTAIN WASTEWATER PERMITS

Section 15.18. Notwithstanding the provisions of Article 11 of Chapter 130A of the General Statutes to the contrary, the Department of Environment, Health, and Natural Resources or the local health department shall issue an improvement permit and an authorization for wastewater system construction for any wastewater system that was the subject of an improvement permit issued by a local health department between July 1, 1982, and September 30, 1995, that expired prior to the installation of that wastewater system, upon a showing satisfactory to the Department or the local health department, respectively, that all of the following conditions are satisfied:

- (1) The site and soil conditions are unaltered.
- (2) The facility, design wastewater flow, and wastewater characteristics are not increased since the expired permit was issued.
- (3) A wastewater system can be installed that meets the permitting requirements in effect on the date the expired improvement permit was issued.
- (4) The intended use has not changed.
- (5) There is no current technology that can reasonably be expected to improve the performance of the system.
- (6) But for the issuance of an authorization for wastewater system construction under this act, the proposed site cannot be developed for the purpose for which the expired permit was issued.

Requested by: Senator Martin of Pitt, Representatives Mitchell, Baker, Carpenter

WATER QUALITY PERMIT PROGRAMS/RESERVE FUNDS

Section 15.19. (a) Of the funds appropriated to the Department of Environment, Health, and Natural Resources by this act for the 1997-98 fiscal year, the sum of one million dollars (\$1,000,000) shall be held in reserve within the Department.

(b) Of those funds held in reserve, the sum of one hundred fifty thousand dollars (\$150,000) shall be used to replace federal construction grant funds when the federal funds cease for the support of three positions in the Division of Water Quality, Department of Environment, Health, and Natural Resources.

(c) The remaining eight hundred fifty thousand dollars (\$850,000) held in reserve is to offset a possible permit receipt shortfall for the water quality programs for unrealized revenue up to two million nine hundred fifty thousand dollars (\$2,950,000).

Subject to approval by the Office of State Budget and Management, the Department may use the reserve funds during the 1997-98 fiscal year in accordance with this subsection. The eight hundred fifty thousand dollars (\$850,000) in reserve may be used to provide the necessary cash flow for the water quality programs during the fiscal year if receipts during the fiscal year are insufficient to cover water quality program expenditures. The reserve funds shall be used only for the water quality programs administered by the Water Quality Section of the Water Quality Division.

At the end of the 1997-98 fiscal year:

(1) If the receipts generated by the water quality permit programs for the 1997-98 fiscal year are less than two million nine hundred fifty thousand dollars (\$2,950,000), then the Water Quality Section may retain from the reserve an amount equal to the difference between two million nine hundred fifty thousand dollars (\$2,950,000) and actual water quality permit receipts for the 1997-98 fiscal year, not to exceed eight hundred fifty thousand dollars (\$850,000).

(2) If the receipts generated by the water quality permit programs for the 1997-98 fiscal year are two million nine hundred fifty thousand dollars (\$2,950,000) or more, then the Water Quality Section shall not retain any funds from the reserve.

(d) All receipts, State funds, and federal funds that are budgeted for the Water Quality Section of the Water Quality Division, Department of Environment, Health, and Natural Resources, shall be used only for the Water Quality Section and the water quality programs administered by that section and shall not be transferred or used for any other purpose.

(e) For purposes of this section, "water quality permits" means all permits issued under Part 1 of Article 21 of Chapter 143 of the General Statutes that are administered by the Water Quality Section of the Water Quality Division, Department of Environment, Health, and Natural Resources.

Requested by: Senator Martin of Pitt, Representatives Mitchell, Baker, Carpenter

FEDERAL FUNDS FOR WATER QUALITY INDIRECT COSTS USED FOR WATER QUALITY

Section 15.20. Federal funds received by the Department of Environment, Health, and Natural Resources received as federal indirect cost receipts associated with the federal Environmental Protection Agency "106" water quality grant may be credited to and used by the Water Quality Section of the Water Quality Division for the permit programs and activities administered by that section.

Requested by: Senator Martin of Pitt, Representatives Mitchell, Baker, Carpenter, H. Hunter

PARTNERSHIP FOR THE SOUNDS

Section 15.21. (a) Subject to subsection (c) of this section, the Partnership for the Sounds shall, no later than January 15, 1998, submit a report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division that provides the following information:

- (1) Program activities, objectives, and accomplishments for the 1996-97 fiscal year;
- (2) Itemized expenditures and fund sources for the 1996-97 fiscal year;
- (3) Planned activities, objectives, and accomplishments for the 1997-98 fiscal year, including actual results through December 31, 1997; and

- (4) Estimated itemized expenditures and fund sources for the 1997-98 fiscal year, including actual expenditures and fund sources through December 31, 1997.

(b) Subject to subsection (c) of this section, the Partnership for the Sounds shall, no later than January 15, 1999, submit a report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division that provides the following information:

- (1) Program activities, objectives, and accomplishments for the 1997-98 fiscal year;
- (2) Itemized expenditures and fund sources for the 1997-98 fiscal year;
- (3) Planned activities, objectives, and accomplishments for the 1998-99 fiscal year, including actual results through December 31, 1998; and
- (4) Estimated itemized expenditures and fund sources for the 1998-99 fiscal year, including actual expenditures and fund sources through December 31, 1998.

(c) The Partnership for the Sounds shall provide additional reports to the Joint Legislative Commission on Governmental Operations or the Fiscal Research Division upon request.

(d) The Partnership for the Sounds shall provide a copy of its annual audited financial statement to the Fiscal Research Division within 30 days of issuing the financial statement.

Requested by: Senator Martin of Pitt, Representatives Mitchell, Baker, Carpenter

COMMUNICABLE DISEASE CONTROL AID TO COUNTIES FLEXIBILITY

Section 15.22. (a) For the 1997-98 and 1998-99 fiscal years, the Department of Environment, Health, and Natural Resources may combine and allocate funds appropriated for Aid to Counties in the Acute Communicable Disease Control Fund, the Tuberculosis Control Fund, and the Sexually Transmitted Disease Control Fund into one Acute Communicable Disease Control Aid to Counties Grant. Communicable Disease Aid to Counties funding to local health departments and other authorized recipients will be based on a general communicable disease formula to be developed by the Department of Environment, Health, and Natural Resources.

(b) The Department of Environment, Health, and Natural Resources, in conjunction with local health departments, will maintain a system to monitor and identify Aid to Counties communicable disease expenditures by each communicable disease group. The Department shall report to the Joint Legislative Commission on Governmental Operations not later than October 1, 1997, and annually thereafter, on Aid to Counties expenditures by county for each communicable disease group and the purpose of the expenditures for the fiscal year. The report shall also include an evaluation of the effectiveness of combining Aid to Counties funding into one grant fund and the effectiveness of the formula used to allocate funds.

Requested by: Senator Martin of Pitt, Representatives Mitchell, Baker, Carpenter

DWI TEST CHANGES

Section 15.23. (a) For the 1997-98 and 1998-99 fiscal years, any funds collected under G.S. 20-16.5(j) that are designated for the chemical alcohol testing program of the Injury Control Section of the Department of Environment, Health, and Natural Resources and are not needed for that program shall be transferred annually to the Governor's Highway Safety Program for grants to local law enforcement agencies for training and enforcement of the laws on driving while impaired. The Governor's Highway Safety Program shall expend funds transferred to it under this section within 13 months of receipt of the funds. Amounts received by the Governor's Highway Safety Program shall not revert until the June 30 following the 13-month period.

(b) Notwithstanding G.S. 143-23(a1)(3), if the total requirements for the 1997-98 and 1998-99 fiscal years for the statewide chemical alcohol testing program exceed funds appropriated in this act for the program, then the Injury Control Section may use funds in accordance with G.S. 20-16.5(j) to fund the chemical alcohol testing program requirements in excess of the General Fund appropriation, provided that total expenditures for the 1997-98 and 1998-99 fiscal years for the chemical alcohol testing program shall not exceed amounts collected under G.S. 20-16.5(j) and designated for the chemical alcohol and testing program.

Requested by: Senator Martin of Pitt, Representatives Mitchell, Baker, Carpenter

STATE TRAINING/ENVIRONMENTAL HEALTH SPECIALISTS

Section 15.24. The Department of Environment, Health, and Natural Resources shall improve the initial training provided to environmental health specialists serving as agents of the State. The Department shall utilize modern technology and training techniques for improving the training program. The Department shall make a progress report on the training program to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division not later than July 1, 1998.

Requested by: Senators Martin of Pitt, Warren, Representatives Mitchell, Baker, Carpenter

EXTEND HEART DISEASE AND STROKE PREVENTION TASK FORCE

Section 15.25. Subsections (l) and (m) of Section 26.9 of Chapter 507 of the 1995 Session Laws read as rewritten:

"(l) The Task Force shall submit to the Governor and to the General Assembly a preliminary report by January 1, 1996; an interim report within the first week of the convening of the 1997 General Assembly; a second interim report within the first week of the convening of the 1997 General Assembly, Regular Session 1998; a third interim report within the first week of the convening of the 1999 General Assembly, and a final report by October 1, 1997, June 30, 1999. The reports shall address the Plan, actions and resources needed to fully implement the Plan, and progress in achieving implementation of the Plan to reduce the occurrence

of and burden from heart disease and stroke in North Carolina. The reports shall include an accounting of funds expended and anticipated funding needs for full implementation of recommended plans and programs.

(m) Upon submission of its final report to the Governor and the 1997 1999 General Assembly, the Task Force shall expire."

Requested by: Senator Martin of Pitt, Representatives Mitchell, Baker, Carpenter, H. Hunter

IMMUNIZATION PROGRAM FUNDING

Section 15.26. (a) Of the funds appropriated to the Department of Environment, Health, and Natural Resources for the 1997-99 fiscal biennium for childhood immunization programs for positions, operating support, equipment, and pharmaceuticals, the sum of up to one million dollars (\$1,000,000) each fiscal year may be used for projects and activities that are also designed to increase childhood immunization rates in North Carolina. These projects and activities shall include the following:

- (1) Outreach efforts at the State and local levels to improve service delivery of vaccines. Outreach efforts may include educational seminars, media advertising, support services to parents to enable children to be transported to clinics, longer operating hours for clinics, and mobile vaccine units; and

- (2) Continued development of an automated immunization registry.

(b) Funds authorized to be used for immunization efforts under subsection (a) of this section shall not be used to fund additional State positions in the Department of Environment, Health, and Natural Resources.

Requested by: Senator Martin of Pitt, Representatives Mitchell, Baker, Carpenter, H. Hunter

WIC PROGRAM FUNDS

Section 15.27. Of the funds appropriated to the Department of Environment, Health, and Natural Resources for the Women, Infants, and Children (WIC) Program, the sum of one million two hundred eighty thousand dollars (\$1,280,000) for the 1997-98 fiscal year and the sum of one million two hundred eighty thousand dollars (\$1,280,000) for the 1998-99 fiscal year shall, if sufficient federal food funds are available, be used for the WIC Program as follows:

- (1) Not more than \$500,000 in each fiscal year shall be used to establish new WIC Programs in Head Start or other private or public nonprofit agencies to serve additional mothers, infants, and children. The Department shall utilize these funds for local program operations including staff to provide eligibility determination, nutrition education, and health care referrals. In selecting the new WIC Programs, the Department shall consider accessibility to the target population including location and hours of operation.
- (2) Not more than \$250,000 in each fiscal year shall be used to renovate facilities of existing programs where space constraints limit program expansion, and to fund rental costs in areas where accessible donated space is not available. In selecting the facilities

the Department shall consider accessibility to the target population including location and extended hours of operation. In determining whether to fund rental of space, the Department shall ensure that options for using donated accessible space have been considered. Not more than \$75,000 of funds allocated under this subdivision for each fiscal year shall be used for rental of space.

- (3) Not more than \$300,000 in each fiscal year shall be used to purchase physician-prescribed special formulas and nutritional supplements for infants, children, and women.
- (4) Not more than \$60,000 in each fiscal year shall be used to provide the required State match to the WIC farmers' market project.
- (5) Not more than \$170,000 in each fiscal year shall be used for the purpose of establishing and maintaining a Public Health Nutritionist Internship Program.

If sufficient federal food funds are not available then funds appropriated for the WIC Program under this section shall be used to supplement federal food funds and any balance in funds remaining after the supplemental use shall be used in accordance with subdivisions (1) through (5) of this section.

Requested by: Senator Martin of Pitt, Representatives Mitchell, Baker, Carpenter, H. Hunter

ADOLESCENT PREGNANCY PREVENTION COALITION OF NC/REPORTING

Section 15.28. The Adolescent Pregnancy Prevention Coalition of N.C. shall:

- (1) By January 15, 1998, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
 - a. State fiscal year 1996-97 program activities, objectives, and accomplishments;
 - b. State fiscal year 1996-97 itemized expenditures and fund sources;
 - c. State fiscal year 1997-98 planned activities, objectives, and accomplishments including actual results through December 31, 1997; and
 - d. State fiscal year 1997-98 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 1997.
- (2) By January 15, 1999, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
 - a. State fiscal year 1997-98 program activities, objectives, and accomplishments;
 - b. State fiscal year 1997-98 itemized expenditures and fund sources;
 - c. State fiscal year 1998-99 planned activities, objectives, and accomplishments including actual results through December 31, 1998; and

- d. State fiscal year 1998-99 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 1998.
- (3) Provide to the Fiscal Research Division a copy of the Coalition's annual audited financial statement within 30 days of issuance of the statement.

Requested by: Senator Martin of Pitt, Representatives Mitchell, Baker, Carpenter

NORTH CAROLINA HEALTHY START FOUNDATION/REPORTING

Section 15.29. The North Carolina Healthy Start Foundation shall:

- (1) By January 15, 1998, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
 - a. State fiscal year 1996-97 program activities, objectives, and accomplishments;
 - b. State fiscal year 1996-97 itemized expenditures and fund sources;
 - c. State fiscal year 1997-98 planned activities, objectives, and accomplishments including actual results through December 31, 1997; and
 - d. State fiscal year 1997-98 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 1997.
- (2) Provide to the Fiscal Research Division a copy of the Foundation's annual audited financial statement within 30 days of issuance of the statement.

Requested by: Representatives Mitchell, Baker, Carpenter, Creech, Senator Martin of Pitt

CHILDHOOD LEAD EXPOSURE CONTROL

Section 15.30. (a) Of the funds appropriated in this act to the Department of Environment, Health, and Natural Resources, the sum of two hundred thirty-seven thousand seventy-nine dollars (\$237,079) for the 1997-98 fiscal year and the sum of two hundred ten thousand eight hundred seventy-nine dollars (\$210,879) for the 1998-99 fiscal year shall be used to expand the State's Childhood Lead Poisoning Prevention Program.

(b) Part 4 of Article 5 of Chapter 130A of the General Statutes is amended by adding the following new sections to read:

"§ 130A-131.7. Definitions.

As used in this Part, unless the context requires otherwise, the term:

- (1) Abatement. -- Identifying lead-based paint, identifying or assessing a lead-based paint hazard, or undertaking any of the following measures to eliminate a lead-based paint hazard:
 - a. Removing lead-based paint from a surface and repainting the surface.
 - b. Removing a component, such as a windowsill, painted with lead-based paint and replacing the component.

- c. Enclosing a surface painted with lead-based paint with paneling, vinyl siding, or another approved material.
- d. Encapsulating a surface painted with lead-based paint with a sealant.
- e. Any other measure approved by the Commission.
The term includes an inspection and a risk assessment.
- (2) 'Confirmed lead poisoning' means a blood lead concentration of 20 micrograms per deciliter or greater determined by the lower of two consecutive blood tests within a six-month period.
- (3) 'Child-occupied facility' means a building, or portion of a building, constructed prior to 1978, regularly visited by a child who is less than 6 years of age. Child-occupied facilities may include, but are not limited to, child care facilities, preschools, nurseries, kindergarten classrooms, schools, clinics, or treatment centers including the common areas, the grounds, any outbuildings, or other structures appurtenant to the facility.
- (4) 'Department' means the Department of Environment, Health, and Natural Resources or its authorized agent.
- (5) 'Elevated blood lead level' means a blood lead concentration of 10 micrograms per deciliter or greater determined by the lower of two consecutive blood tests within a six-month period.
- (6) 'Lead-based paint hazard' means a condition that is likely to cause adverse health effects as a result of exposure to lead-based paint or to soil or dust that contains lead derived from lead-based paint.
- (7) 'Lead poisoning hazard' means the presence of readily accessible or mouthable lead-bearing substances, including lead-based paint, measuring 1.0 milligram per square centimeter or greater by X-ray fluorescence or five-tenths of one percent (0.5%) or greater by chemical analysis; or 15 parts per billion or greater in drinking water; or 100 micrograms per square foot or greater for dust on floors; or 500 micrograms per square foot or greater for dust on windowsills; or 800 micrograms per square foot or greater for dust in window troughs, or soil lead concentrations in an amount greater than or equal to 400 parts per million that is determined by the Department to present a hazard in light of (i) the condition and use of the land and (ii) other relevant factors.
- (8) 'Lead-safe housing' is housing that was built since 1978 or has been tested by a person that has been certified to perform risk assessments and found to have no lead-based paint hazards within the meaning of the Residential Lead-Based Paint Reduction Act of 1992, 42 U.S.C. § 4851b(15).
- (9) 'Managing agent' means any person who has charge, care, or control of a building or part thereof in which dwelling units or rooming units are leased.
- (10) 'Maintenance standard' means the following:
 - a. Using safe work practices, repairing and repainting areas of deteriorated paint inside a residential housing unit and for single-family and duplex residential dwellings built prior to

- 1950, repairing and repainting areas of deteriorated paint on interior and exterior surfaces;
- b. Cleaning the interior of the unit to remove dust that constitutes a lead poisoning hazard;
 - c. Adjusting doors and windows to minimize friction or impact on surfaces;
 - d. Subject to the occupant's approval, appropriately cleaning any carpets;
 - e. Taking such steps as are necessary to ensure that all interior surfaces on which dust might collect are readily cleanable; and
 - f. Providing the occupant or occupants all information required to be provided under the Residential Lead-Based Paint Hazard Reduction Act of 1992, and amendments thereto.
- (11) 'Mouthable lead-bearing substance' means any substance on surfaces or fixtures five feet or less from the floor or ground that form a protruding corner or similar edge, or protrude one-half inch or more from a flat wall surface, or are freestanding, containing lead-contaminated dust at a level that constitutes a lead poisoning hazard. Mouthable surfaces or fixtures include toys, vinyl miniblinds, doors, door jambs, stairs, stair rails, windows, windowsills, and baseboards.
- (12) 'Persistent elevated blood lead level' means a blood lead concentration of 15-19 micrograms per deciliter determined by the lowest of three consecutive blood tests. The first two blood tests shall be performed within a six-month period, and the third blood test shall be performed at least 12 weeks and not more than six months after the second blood test.
- (13) 'Readily accessible lead-bearing substance' means any substance containing lead at a level that constitutes a lead poisoning hazard which can be ingested or inhaled by a child under 6 years of age. Readily accessible substances include deteriorated paint that is peeling, chipping, cracking, flaking, or blistering to the extent that the paint has separated from the substrate. Readily accessible substances also include soil, water, and paint that is chalking.
- (14) 'Regularly visits' means the presence at a residential housing unit or child-occupied facility on at least two different days within any week, provided that each day's visit lasts at least three hours and the combined weekly visits last at least six hours, and the combined annual visits last at least 60 hours.
- (15) 'Remediation' means the elimination or control of lead poisoning hazards by methods approved by the Department.
- (16) 'Residential housing unit' means a dwelling, dwelling unit, or other structure, all or part of which is designed or used for human habitation, including the common areas, the grounds, any outbuildings, or other structures appurtenant to the residential housing unit.

- (17) 'Supplemental address' means a residential housing unit or child-occupied facility where a child with a persistent elevated blood lead level or a confirmed lead poisoning regularly visits or attends. Supplemental address also means a residential housing unit or child-occupied facility where a child resided, regularly visited, or attended within the six months immediately preceding the determination of a persistent elevated blood lead level or a confirmed lead poisoning.

"§ 130A-131.8. Reports of blood levels in children.

All laboratories doing business in this State shall report to the Department blood lead levels of one microgram per deciliter or greater for children less than 6 years of age and for individuals whose ages are unknown at the time of testing. Reports shall be made within five working days after test completion on forms provided by the Department or on self-generated forms containing: the child's full name, date of birth, sex, race, address, and Medicaid number, if any; the name, address, and telephone number of the requesting health care provider; the name, address, and telephone number of the testing laboratory; the laboratory results, the specimen type -- venous or capillary; the laboratory sample number, and the dates the sample was collected and analyzed. Such reports may be made by electronic submissions.

"§ 130A-131.9. Examination and testing.

When the Department has a reasonable suspicion that a child less than 6 years of age has a persistent elevated blood lead level or a confirmed lead poisoning, the Department may require that child to be examined and tested within 30 days. The Department shall require from the owner, managing agent, or tenant of the residential housing unit or child-occupied facility information on each child who resides in, regularly visits, or attends, or, who has within the past six months, resided in, regularly visited, or attended the unit or facility. The information required shall include each child's name and date of birth, the names and addresses of each child's parents, legal guardian, or full-time custodian. The owner, managing agent, or tenant shall submit the required information within 10 days of receipt of the request from the Department.

"§ 130A-131.9A. Investigation to identify lead poisoning hazards.

(a) When the Department learns of a persistent elevated blood lead level or a confirmed lead poisoning, the Department shall conduct an investigation to identify the lead poisoning hazards to children. The Department shall investigate the residential housing unit or child-occupied facility where the child with the persistent elevated blood lead level or the confirmed lead poisoning resides, regularly visits, or attends. The Department shall also investigate the supplemental addresses of the child who has a persistent elevated blood lead level or a confirmed lead poisoning.

(b) The Department shall also conduct an investigation when it reasonably suspects that a lead poisoning hazard to children exists in a residential housing unit or child-occupied facility occupied, regularly visited, or attended by a child less than 6 years of age.

(c) In conducting an investigation, the Department may take samples of surface materials, or other materials suspected of containing lead, for

analysis and testing. If samples are taken, chemical determination of the lead content of the samples shall be by atomic absorption spectroscopy or equivalent methods approved by the Department.

"§ 130A-131.9B. Notification.

Upon determination that a lead poisoning hazard exists, the Department shall give written notice of the lead poisoning hazard to the owner or managing agent of the residential housing unit or child-occupied facility and to all persons residing in, attending, or regularly visiting the unit or facility. The written notice to the owner or managing agent shall include a list of possible methods of abatement of the lead-based paint hazards and of possible methods of remediation of any other lead poisoning hazard.

"§ 130A-131.9C. Abatement and remediation.

(a) Upon determination that a child less than 6 years of age has a confirmed lead poisoning of 20 micrograms per deciliter or greater and that child resides in, attends, or regularly visits, a residential housing unit or child-occupied facility containing lead poisoning hazards, the Department shall require abatement of the lead-based paint hazards and the remediation of other lead poisoning hazards. The Department shall also require the abatement of the lead-based paint hazards and the remediation of other lead poisoning hazards identified at the supplemental addresses of a child less than 6 years of age with a confirmed lead poisoning of 20 micrograms per deciliter or greater.

(b) When abatement of lead-based paint hazards or remediation of other lead poisoning hazards is required under subsection (a) of this section, the owner or managing agent shall submit a written remediation plan to the Department within 14 days of receipt of the lead poisoning hazard notification and shall obtain written approval of the plan prior to initiating abatement of lead-based paint hazards or remediation of other lead poisoning hazards. The remediation plan shall comply with subsections (g), (h), and (i) of this section.

(c) If the remediation plan submitted fails to meet the requirements of this section, the Department shall issue an order requiring submission of a modified plan. The order shall indicate the modifications which shall be made to the remediation plan and the date by which the plan as modified shall be submitted to the Department.

(d) If the owner or managing agent does not submit a remediation plan within 14 days, the Department shall issue an order requiring submission of a remediation plan within five days of receipt of the order.

(e) The owner or managing agent shall notify the Department and the occupants of the dates of remediation activities at least three days prior to the commencement of the activities.

(f) Abatement of lead-based paint hazards and remediation of other lead poisoning hazards shall be completed within 60 days of the Department's approval of the remediation plan. If these activities are not completed within 60 days as required, the Department shall issue an order requiring completion of the activities. An owner or managing agent may apply to the Department for an extension of the deadline. The Department may issue an order extending the deadline for 30 days upon proper written application by the owner or managing agent.

(g) The following methods of abatement of lead-based paint hazards are prohibited:

- (1) Stripping paint on-site with methylene chloride-based solutions;
- (2) Torch or flame burning;
- (3) Heating paint with a heat gun above 1,100 degrees Fahrenheit;
- (4) Covering with new paint or wallpaper unless all readily accessible lead-based paint has been removed;
- (5) Uncontrolled abrasive blasting; or
- (6) Uncontrolled waterblasting.

(h) All lead-containing waste and residue shall be removed and disposed of in accordance with applicable federal, State, and local laws and rules.

(i) All remediation plans shall require that the lead poisoning hazards be reduced to below the following levels:

- (1) Floor lead dust levels are less than 100 micrograms per square foot;
- (2) Windowsill lead dust levels are less than 500 micrograms per square foot;
- (3) Window trough lead dust levels are less than 800 micrograms per square foot;
- (4) Soil lead levels are less than 400 parts per million or such other level higher than 400 parts per million as determined by the Department to prevent a hazard in light of the condition and use of the land and in light of other relevant factors; and
- (5) Drinking water lead levels less than 15 parts per billion.

(j) The Department shall verify by visual inspection that the approved remediation plan has been completed. The Department may also verify plan completion by residual lead dust monitoring and soil or drinking water lead level measurement. Compliance with the maintenance standard shall be deemed equivalent to meeting the remediation plan requirements as long as exterior surfaces are also addressed.

(k) Removal of children from the residential housing unit or child-occupied facility shall not constitute abatement or remediation if the property continues to be used for a residential housing unit or child-occupied facility.

"§ 130A-131.9D. Effect of compliance with maintenance standard.

Any owner of a residential housing unit constructed prior to 1978 who is sued by a current or former occupant seeking damages for injuries allegedly arising from exposure to lead-based paint or lead-contaminated dust, shall not be deemed liable (i) for any injuries sustained by that occupant after the owner first complied with the maintenance standard defined under G.S. 130A-131.7(10) provided the owner has repeated the steps provided for in the maintenance standard annually and obtained a certificate of compliance under G.S. 130A-131.9E annually during such occupancy; or (ii) if the owner is able to show by other documentation that compliance with the maintenance standard has been maintained during the period when the injuries were sustained; or (iii) if the owner is able to show that the unit was lead-safe housing containing no lead-based paint hazards during the period when the injuries were sustained.

"§ 130A-131.9E. Certificate of evidence of compliance.

An owner of a unit who has complied with the maintenance standard may apply annually to the Department for a certificate of compliance. Upon presentation of acceptable proof of compliance, the Department shall provide to the owner a certificate evidencing compliance. The Department may issue a certificate based solely on information provided by the owner and may revoke the certificate upon showing that any of the information is erroneous or inadequate, or upon finding that the unit is no longer in compliance with the maintenance standard.

"§ 130A-131.9F. Discrimination in financing.

(a) No bank or financial institution in the business of lending money for the purchase, sale, construction, rehabilitation, improvement, or refinancing of real property or the lending of money secured by an interest in real property may refuse to make such loans merely because of the presence of lead-based paint on the residential real property or in the residential housing unit provided that the owner is in compliance with the maintenance standard and has obtained a certificate of compliance under G.S. 130A-131.9E annually.

(b) Nothing in this section shall (i) require a financial institution to extend a loan or otherwise provide financial assistance if it is clearly evident that health-related issues, other than those related to lead-based paint, make occupancy of the housing accommodation an imminent threat to the health or safety of the occupant, or (ii) be construed to preclude a financial institution from considering the fair market value of the property which will secure the proposed loan.

(c) Failure to meet the maintenance standard shall not be deemed a default under existing mortgages.

"§ 130A-131.9G. Resident responsibilities.

In any residential housing unit occupied by a child less than 6 years old who has an elevated blood lead level of 10 micrograms per deciliter or greater, the Department shall advise, in writing, the owner or managing agent and the child's parents or legal guardian as to the importance of carrying out routine cleaning activities in the units they occupy, own, or manage. Such cleaning activities shall include:

- (1) Wiping clean all windowsills with a damp cloth or sponge at least weekly;
- (2) Regularly washing all surfaces accessible to children;
- (3) In the case of a leased residential housing unit, identifying any deteriorated paint in the unit and notifying the owner or managing agent of such conditions within 72 hours of discovery; and
- (4) Identifying and understanding potential lead poisoning hazards in the environment of each child under the age of 6 in the unit (including toys, vinyl miniblinds, playground equipment, drinking water, soil, and painted surfaces), and taking steps to prevent children from ingesting lead such as encouraging children to wash their faces and hands frequently and especially after playing outdoors."

(c) The Commission for Health Services shall adopt rules in accordance with Chapter 150B of the General Statutes to implement subsection (b) of this section.

(d) Subsections (b) and (c) of this section become effective October 1, 1997.

Requested by: Senator Martin of Pitt, Representatives Mitchell, Baker, Carpenter

CANCER CONTROL FUNDS

Section 15.31. Of the funds appropriated in this act to the Department of Environment, Health, and Natural Resources, the sum of two hundred fifty thousand dollars (\$250,000) for the 1997-98 fiscal year and the sum of two hundred fifty thousand dollars (\$250,000) for the 1998-99 fiscal year shall be allocated for promoting the prevention, early detection, data collection, coordination, and optimal care in the control of cancer. Purposes for which funds appropriated under this section may be used include a total of five full-time positions for the Central Cancer Registry, the Division of Health Promotion, and the Advisory Committee on Cancer Coordination and Control. Funds shall be allocated upon the advice of the Advisory Committee on Cancer Coordination and Control. The Department shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division by February 1, 1998, on the allocation and use of the funds.

Requested by: Senator Martin of Pitt

OSTEOPOROSIS TASK FORCE

Section 15.32. (a) Of the funds appropriated in this act to the Department of Environment, Health, and Natural Resources, Division of Health Promotion, the sum of two hundred thousand dollars (\$200,000) for the 1997-98 fiscal year shall be allocated for the Osteoporosis Prevention Task Force created under this section.

(b) The North Carolina Osteoporosis Prevention Task Force is created in the Division of Health Promotion, Department of Environment, Health, and Natural Resources.

(c) The Task Force shall have 25 members. The Governor shall appoint the Chair, and the Vice-Chair shall be elected by the Task Force. The Director of the Division of Health Promotion in the Department of Environment, Health, and Natural Resources, the Director of the Division of Medical Assistance in the Department of Human Resources, and the Director of the Division of Aging in the Department of Human Resources, or their designees, shall be members of the Task Force. Appointments to the Task Force shall be made as follows:

- (1) By the President Pro Tempore of the Senate, as follows:
 - a. Two members of the Senate;
 - b. A representative of a women's health organization;
 - c. A local health director;
 - d. A certified health educator;
 - e. A representative of the North Carolina Association of Area Agencies on Aging; and

- f. A person with osteoporosis.
- (2) By the Speaker of the House of Representatives, as follows:
 - a. Two members of the House of Representatives;
 - b. A county commissioner;
 - c. A licensed dietitian/nutritionist;
 - d. A pharmacist;
 - e. A registered nurse; and
 - f. A person with osteoporosis.
- (3) By the Governor, as follows:
 - a. A practicing family physician, rheumatologist, or endocrinologist;
 - b. A president or chief executive officer of a business upon recommendation of a North Carolina wellness council which is a member of the Wellness Councils of America;
 - c. A news director of a newspaper or television or radio station;
 - d. A representative of a North Carolina affiliate of the National Osteoporosis Foundation;
 - e. A representative from the North Carolina Cooperative Extension Service;
 - f. A representative of the Governor's Council on Physical Fitness and Health; and
 - g. Two members at large.
- (d) Each appointing authority shall assure insofar as possible that its appointees to the Task Force reflect the composition of the North Carolina population with regard to ethnic, racial, age, gender, and religious composition.
- (e) The General Assembly and the Governor shall make their appointments to the Task Force not later than 30 days after the adjournment of the 1997 General Assembly, Regular Session 1998. A vacancy on the Task Force shall be filled by the original appointing authority, using the criteria set out in this section for the original appointment.
- (f) The Task Force shall meet at least quarterly or more frequently at the call of the Chair.
- (g) The Task Force Chair may establish committees for the purpose of making special studies pursuant to its duties and may appoint non-Task Force members to serve on each committee as resource persons. Resource persons shall be voting members of the committees and shall receive subsistence and travel expenses in accordance with G.S. 138-5 and G.S. 138-6. Committees may meet with the frequency needed to accomplish the purposes of this section.
- (h) Members of the Task Force shall receive per diem and necessary travel and subsistence expenses in accordance with G.S. 120-3.1, 138-5, and 138-6, as applicable.
- (i) A majority of the Task Force shall constitute a quorum for the transaction of its business.
- (j) The Task Force may use funds allocated to it to establish one full-time limited position and for other expenditures needed to assist the Task Force in carrying out its duties.
- (k) The Osteoporosis Prevention Task Force has the following duties:

- (1) To undertake a statistical and qualitative examination of the incidence of and causes of osteoporosis deaths and risks, including identification of subpopulations at highest risk for developing osteoporosis, and establish a profile of the osteoporosis burden in North Carolina.
- (2) To raise public awareness on the causes and nature of osteoporosis, personal risk factors, value of prevention and early detection, and options for diagnosing and treating the disease.
- (3) To identify priority strategies which are effective in preventing and controlling risks for osteoporosis, and in diagnosing and treating osteoporosis.
- (4) To identify, examine limitations of, and recommend to the Governor and the General Assembly changes to existing laws, regulations, programs, services, and policies to enhance osteoporosis prevention, diagnosis, and treatment for the people of North Carolina.
- (5) To determine and recommend to the Governor and the General Assembly the funding and strategies needed to enact new or to modify existing laws, regulations, programs, services, and policies to enhance osteoporosis prevention, diagnosis, and treatment for the people of North Carolina.
- (6) To develop a statewide comprehensive Osteoporosis Prevention Plan, and strategies for Plan implementation and for promoting the Plan to the general public, State and local elected officials, various public and private organizations and associations, businesses and industries, agencies, potential funding sources, and other community resources.
- (7) To identify strategies to facilitate specific commitments to help implement the Plan from the entities listed in subdivision (6) above.
- (8) To facilitate coordination of and communication among State and local agencies and organizations regarding current or future involvement in achieving the aims of the Osteoporosis Prevention Plan.
- (9) To receive and consider reports and testimony from individuals, local health departments, community-based organizations, voluntary health organizations, and other public and private organizations statewide, to learn more about their contributions to osteoporosis diagnosis, prevention, and treatment, and their ideas for improving osteoporosis prevention, diagnosis, and treatment in North Carolina.
- (1) The Task Force shall submit a progress report to the Joint Legislative Commission on Governmental Operations, the Governor, and the Fiscal Research Division not later than April 1, 1998. The progress report shall address:
 - (1) Progress being made in fulfilling the duties of the Task Force and in developing the Osteoporosis Prevention Plan,
 - (2) The anticipated time frame for completion of the Prevention Plan, and

(3) Recommended strategies or actions to reduce the occurrence of and burdens suffered from osteoporosis by citizens of this State. The Task Force shall submit its final report to the 1999 General Assembly, the Governor, and the Fiscal Research Division not later than October 1, 1999.

(m) Upon submission of its final report to the Governor and the 1999 General Assembly, the Task Force shall expire.

Requested by: Representatives Mitchell, Baker, Carpenter, H. Hunter, Senator Martin of Pitt

PREVENT BLINDNESS, INC./REPORTING

Section 15.33. Prevent Blindness, Inc., shall:

- (1) By January 15, 1998, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
 - a. State fiscal year 1996-97 program activities, objectives, and accomplishments;
 - b. State fiscal year 1996-97 itemized expenditures and fund sources;
 - c. State fiscal year 1997-98 planned activities, objectives, and accomplishments including actual results through December 31, 1997; and
 - d. State fiscal year 1997-98 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 1997.
- (2) Provide to the Fiscal Research Division a copy of the Prevent Blindness, Inc., annual audited financial statement within 30 days of issuance of the statement.

Requested by: Senator Martin of Pitt, Representatives Mitchell, Baker, Carpenter

FEDERAL ABSTINENCE EDUCATION FUNDS

Section 15.34. If federal funds are received under the Maternal and Child Health Block Grant for abstinence education, pursuant to section 912 of Public Law 104-193 (42 U.S.C. § 710), for the 1997-98 or the 1998-99 fiscal year, or both, then those funds shall be transferred to the State Board of Education to be administered by the Department of Public Instruction. The Department shall use the funds to establish an Abstinence Until Marriage Education Program and shall delegate to one or more persons the responsibility of implementing the program and G.S. 115C-81(e1)(4). The Department shall carefully and strictly follow federal guidelines in implementing and administering the abstinence education grant funds.

Requested by: Representatives Carpenter, Mitchell, Baker, Fox, Senators Martin of Pitt, Jenkins, Shaw of Guilford

STUDY DESIRABILITY OF REORGANIZING DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES/TRANSFER OF NORTH CAROLINA NATIONAL PARK, PARKWAY AND FORESTS DEVELOPMENT COUNCIL

Section 15.35. (a) The Office of State Budget and Management shall review the programs, divisions, boards, commissions, councils, and committees currently within the Department of Environment, Health, and Natural Resources and shall conduct a study to determine the desirability of reorganizing the Department of Environment, Health, and Natural Resources so as to create two separate departments with one department that would manage and protect the State's natural resources and with a separate department that would protect the environment and contain regulatory programs. The study shall determine:

- (1) A proposal for allocating existing administrative operating support and personnel between these two separate departments;
- (2) Any additional personnel that would be needed in association with creating these two separate departments and the projected cost of these personnel;
- (3) Any additional equipment that would be needed in association with creating these two separate departments and the projected cost of this equipment;
- (4) Any additional office space that would be required and its projected cost;
- (5) Which programs, divisions, boards, commissions, councils, and committees should be in a department of natural resources, which programs, divisions, boards, commissions, councils, and committees should be in a department of environment, and which programs, divisions, boards, commissions, councils, and committees, if any, should be in other departments;
- (6) Any additional factors and costs that should be considered were the Department of Environment, Health, and Natural Resources reorganized so as to create these two separate departments; and
- (7) The total costs of reorganizing the Department of Environment, Health, and Natural Resources so as to create these two separate departments.

(b) The Office of State Budget and Management shall recommend whether the Department of Environment, Health, and Natural Resources should be reorganized so as to create two separate departments, with one department that would manage and protect the State's natural resources and with a separate department that would protect the environment and contain regulatory programs. By March 15, 1998, the Office of State Budget and Management shall report on all matters contained in subdivisions (1) through (7) of subsection (a) of this section to the Joint Legislative Commission on Governmental Operations, the Environmental Review Commission, and the Fiscal Research Division.

Section 15.36. (a) All functions, powers, duties, and obligations heretofore vested in the North Carolina National Park, Parkway and Forests Development Council of the Department of Commerce are hereby transferred to and vested in the Department of Environment, Health, and Natural Resources by a Type II transfer, as defined in G.S. 143A-6.

(b) Part 7 of Article 10 of Chapter 143B of the General Statutes, G.S. 143B-446 through G.S. 143B-447.1, is recodified as Part 17A of Article 7

of Chapter 143B of the General Statutes, G.S. 143B-324.1 through G.S. 143B-324.3.

(c) G.S. 143B-324.1, as recodified by subsection (b) of this section, reads as rewritten:

"§ 143B-324.1. *North Carolina National Park, Parkway and Forests Development Council*— *Council; creation; ~~powers and powers~~; duties.*

~~There is hereby created the~~ The North Carolina National Park, Parkway and Forests Development Council ~~of is created within the Department of Commerce, Environment, Health, and Natural Resources. The North Carolina National Park, Parkway and Forests Development Council shall have the following functions and duties: shall:~~

~~The Council shall endeavor~~

- (1) Endeavor to promote the development of that part of the Smoky Mountains National Park lying in North Carolina, the completion and development of the Blue Ridge Parkway in North Carolina, the development of the Nantahala and Pisgah national forests, and the development of other recreational areas in that part of North Carolina immediately affected by the Great Smoky Mountains National Park, the Blue Ridge Parkway or the Pisgah or Nantahala national forests. ~~It shall be the duty of the Council to study~~
- (2) Study the development of these areas and ~~to recommend a policy~~ that will promote the development of the entire area generally designated as the mountain section of North Carolina, with particular emphasis upon the development of the scenic and recreational resources of the region, and the encouragement of the location of tourist facilities along lines designed to develop to the fullest these resources in the mountain section. ~~It shall confer~~
- (3) Confer with the various departments, agencies, commissioners and officials of the federal government and governments of adjoining states in connection with the development of the federal areas and projects named in this section. ~~It shall also advise~~
- (4) Advise and confer with the various officials, agencies or departments of the State of North Carolina that may be directly or indirectly concerned in the development of the resources of these areas. ~~It shall also advise~~
- (5) Advise and confer with the various interested individuals, organizations or agencies that are interested in developing this ~~area and shall use area.~~
- (6) Use its facilities and efforts in formulating, developing and carrying out overall programs for the development of the area as a whole. ~~It shall study~~
- (7) Study the need for additional entrances to the Great Smoky Mountains National Park, together with the need for additional highway approaches and ~~connections, and connections.~~
- (8) File its findings in this connection ~~shall be filed as recommendations with the National Park Service of the federal government, and the North Carolina Department of Transportation through the Department of Environment, Health, and Natural Resources. The Council shall provide information to the~~

~~Department of Environment, Health, and Natural Resources to be included in the Department's annual report. It shall also file any suggestions or recommendations as it deems proper with the Department of Environment, Health, and Natural Resources in respect to such matters as might be of interest to or affect any department of State government. It shall advise Transportation.~~

- (9) Advise the Secretary of the Department Environment, Health, and Natural Resources upon any matter the Secretary of Environment, Health, and Natural Resources may refer to it."

(d) G.S. 143B-324.2, as recodified by subsection (b) of this section, reads as rewritten:

"§ 143B-324.2. North Carolina National Park, Parkway and Forests Development Council — members; selection; officers; removal; compensation; quorum; services.

The North Carolina National Park, Parkway and Forests Development Council of within the Department of Commerce Environment, Health, and Natural Resources shall consist of seven members appointed by the Governor. The composition of the Council shall be as follows: one member shall be a resident of Buncombe County, one member a resident of Haywood County, one member a resident of Jackson County, one member a resident of Swain County, three members residents of counties adjacent to the Blue Ridge Parkway, the Great Smoky Mountains National Park or the Pisgah or Nantahala national forests. The initial members of the Council shall be the appointed members of the National Park, Parkway and Forests Development Commission who shall serve for a period equal to the remainder of their current terms on the National Park, Parkway and Forests Development Commission. At the end of the respective terms of office of the initial members of the Council, the The appointment of their successors members shall be for terms of four years, or until their successors are appointed and qualify. Any appointment to fill a vacancy on the Council created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term.

The current officers of the North Carolina National Park, Parkway and Forests Development Commission shall continue to serve in that capacity for the remainder of their current terms. Thereafter, the The Council shall elect a chairman, a vice-chairman and a secretary. The chairman and the vice-chairman shall all be members of the Council, but the secretary need not be a member of the Council. These officers shall perform the duties usually pertaining to such offices and when elected shall serve for a period of one year, but may be reelected. In case of vacancies by resignation or death, the office shall be filled by the Council for the unexpired term of said officer.

The Governor shall have the power to remove any member of the Council from office in accordance with the provisions of G.S. 143B-16 of the Executive Organization Act of 1973.

Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5 and G.S. 143B-15 of the Executive Organization Act of 1973.

Five members of the Council shall constitute a quorum for the transaction of business."

(e) This section is effective when this act becomes law.

Requested by: Representatives Mitchell, Baker, Carpenter
FORESTRY AIRCRAFT LEASE RECEIPTS

Section 15.37. The Division of Forest Resources, Department of Environment, Health, and Natural Resources, shall use receipts received from the leasing of an amphibious water-scooping tanker aircraft to offset the operating costs associated with the aircraft. At the end of each fiscal year of the 1997-99 biennium after all receipts received for that fiscal year from the leasing of this aircraft have been applied to the operating costs associated with the aircraft for that fiscal year, any excess funds appropriated by the General Assembly for that fiscal year for the operating costs associated with this aircraft shall revert.

Requested by: Senators Plyler, Perdue, Odom, Martin of Pitt, Conder, Horton

DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES LAW ENFORCEMENT SALARIES EQUALIZED

Section 15.38. The Department of Environment, Health, and Natural Resources shall adjust the average salary of law enforcement officers in the Division of Parks and Recreation from twenty-five thousand eight hundred nine dollars (\$25,809) to thirty thousand ninety-seven dollars (\$30,097), the average salary of law enforcement officers in the Division of Marine Fisheries and Wildlife Resources Commission.

Requested by: Representatives Mitchell, Baker, Carpenter, Fox, Senators Martin of Pitt, Jenkins, Shaw of Guilford

MARINE FISHERIES COMMISSION REFORM FUNDS

Section 15.39. (a) Of the funds appropriated in this act to the Department of Environment, Health, and Natural Resources, the sum of two hundred forty-seven thousand four hundred seventy-five dollars (\$247,475) for the 1997-98 fiscal year and the sum of two hundred thirty thousand four hundred seventy-five dollars (\$230,475) for the 1998-99 fiscal year shall be used to provide funding for standing advisory committees and permanent staff for the Marine Fisheries Commission.

(b) The allocation of funds under subsection (a) of this section is contingent upon the enactment into law of House Bill 1097 of the 1997 Session of the General Assembly or similar legislation that reduces the membership of the Marine Fisheries Commission and requires the establishment of advisory committees for the Commission.

(c) The Department of Environment, Health, and Natural Resources shall transfer to the Office of the State Auditor for the 1997-98 fiscal year the sum of twenty-five thousand dollars (\$25,000) allocated under subsection (a) of this section to the Department, to be used for expenses incurred in connection with a performance audit of the Division of Marine Fisheries.

Requested by: Representatives Mitchell, Baker, Carpenter

MARINE FISHERIES INFORMATION TECHNOLOGY REPORT

Section 15.40. The Division of Marine Fisheries of the Department of Environment, Health, and Natural Resources shall by March 15, 1998, and more frequently as requested, report to the Joint Legislative Commission on Seafood and Aquaculture, the House of Representatives and Senate Appropriations Subcommittees on Natural and Economic Resources, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division the following information:

- (1) A summary of the assessment and recommendations of the Office of the State Auditor regarding computer-based management information systems currently in the Division and the computer-based management information systems needs of the Division.
- (2) An update on the consolidation and modernization of the Division's computer-based management information systems.
- (3) A list of objectives and performance measures for the information technologies improvement project for each of the following phases of the project: development, implementation, and ongoing operation and maintenance of the new system.
- (4) An explanation, justification, and itemized list of expenditures to date for consolidation and modernization of the Division's computer-based management information systems.
- (5) An explanation, justification, and estimate of any additional anticipated expenditures required beyond fiscal year 1997-98 to complete the project. If additional expenditures are required, then the Division shall provide a calendar-based project schedule delineating the additional phases required including the associated expenditures for each additional project phase.
- (6) A calendar-based project schedule delineating the various phases of the project including development, implementation, and completion. This schedule shall identify the associated expenditures for each project phase.

Requested by: Representatives Mitchell, Baker, Carpenter

MARINE PATROL VESSEL

Section 15.41. The Department of Environment, Health, and Natural Resources shall make a reasonable effort to obtain a marine patrol vessel from excess federal property. If the Department fails to obtain such a vessel from excess federal property, then the Department may use available funds for the 1997-99 biennium, not to exceed two hundred thousand dollars (\$200,000) to complete the purchase of a marine patrol vessel.

Requested by: Representatives Mitchell, Baker, Carpenter

SHELLFISH REHABILITATION PROGRAM

Section 15.42. The Oyster Rehabilitation Program in the Division of Marine Fisheries in the Department of Environment, Health, and Natural Resources shall be renamed the Shellfish Rehabilitation Program. Funds appropriated for the Oyster Rehabilitation Program or the Shellfish Rehabilitation Program shall be used for the Shellfish Rehabilitation Program. The Oyster, Clam, and Scallop Subcommittee of the Marine

Fisheries Commission shall advise the Division of Marine Fisheries on the expenditure of Shellfish Rehabilitation Program funds. The Division of Marine Fisheries shall report to the Joint Legislative Commission on Seafood and Aquaculture on the expenditure of Shellfish Rehabilitation Program funds annually, beginning January 1, 1998.

Requested by: Representatives Mitchell, Baker, Carpenter

SOIL SURVEY SUPERVISOR ASSIGNMENT

Section 15.43. The Department of Environment, Health, and Natural Resources shall assign a soil survey supervisor to complete soil surveys in Buncombe and Madison Counties. This position shall remain assigned to these counties until the soil surveys are complete.

Requested by: Representatives Mitchell, Baker, Carpenter, Fox, H. Hunter, Senators Martin of Pitt, Jenkins, Shaw of Guilford

BEAVER DAMAGE CONTROL FUNDS

Section 15.44. (a) Subsection (b) of Section 69 of Chapter 1044 of the 1991 Session Laws, as amended by Section 111 of Chapter 561 of the 1993 Session Laws, Section 27.3 of Chapter 769 of the 1993 Session Laws, Section 26.6 of Chapter 507 of the 1995 Session Laws, and Section 27.15 of Chapter 18 of the Session Laws of the 1996 Second Extra Session reads as rewritten:

"(b) The Beaver Damage Control Advisory Board shall develop a program to control beaver damage on private and public lands. Anson, Bertie, Bladen, Brunswick, Carteret, Chatham, Chowan, Craven, Columbus, Cumberland, Duplin, Edgecombe, Franklin, Gates, Granville, Greene, Halifax, Harnett, Hertford, Hoke, Johnston, Jones, Lee, Lenoir, Lincoln, Martin, Nash, Northampton, Onslow, Pamlico, Pender, Pitt, Robeson, Sampson, Scotland, Vance, Warren, Washington, Wayne, and Wilson Counties shall participate in the program. The Beaver Damage Control Advisory Board shall act in an advisory capacity to the Wildlife Resources Commission in the implementation of the program. In developing the program, the Board shall:

- (1) Orient the program primarily toward public health and safety and toward landowner assistance, providing some relief to landowners through beaver control and management rather than eradication;
- (2) Develop a priority system for responding to complaints about beaver damage;
- (3) Develop a system for documenting all activities associated with beaver damage control, so as to facilitate evaluation of the program;
- (4) Provide educational activities as a part of the program, such as printed materials, on-site instructions, and local workshops;
- (5) Provide for the hiring of personnel necessary to implement beaver damage control activities, administer the program, and set salaries of personnel;
- (6) Evaluate the costs and benefits of the program that might be applicable elsewhere in North Carolina.

No later than January 15, ~~1997, 1998~~, the Board shall issue a report to the Wildlife Resources Commission on the program to date, including recommendations on the feasibility of continuing the program in participating counties and the desirability of expanding the program into other counties. The Wildlife Resources Commission shall prepare a plan to implement a statewide program to control beaver damage on private and public lands. No later than March 15, ~~1997, 1998~~, the Wildlife Resources Commission shall present its plan in a report to the House Appropriations Subcommittee on Natural and Economic Resources, the Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division."

(b) Subsection (h) of Section 69 of Chapter 1044 of the 1991 Session Laws, as amended by Section 111 of Chapter 561 of the 1993 Session Laws, Section 27.3 of Chapter 769 of the 1993 Session Laws, Section 26.6 of Chapter 507 of the 1995 Session Laws, and Section 27.15 of Chapter 18 of the Session Laws of the 1996 Second Extra Session reads as rewritten:

"(h) Subsections (a) through (d) of this section expire June 30, ~~1997, 1998~~."

(c) Of the funds appropriated in this act to the Wildlife Resources Commission for the 1997-98 fiscal year, up to the sum of four hundred fifty thousand dollars (\$450,000) shall be used to provide the State share necessary to continue the beaver damage control program, provided the sum of twenty-five thousand dollars (\$25,000) in federal funds is available for the 1997-98 fiscal year to provide the federal share. These funds shall be matched by four thousand dollars (\$4,000) of local funds for the 1997-98 fiscal year from each of the participating counties. Counties participating in this program shall make a commitment of their local matching funds to the Wildlife Resources Commission no later than September 30, 1997.

Requested by: Representative Hall

AREA THREE SOIL AND WATER REGIONAL COORDINATOR

Section 15.45. Of the funds appropriated in this act to the Department of Environment, Health, and Natural Resources, the sum of forty-six thousand six hundred dollars (\$46,600) for the 1997-98 fiscal year and the sum of forty-three thousand six hundred dollars (\$43,600) for the 1998-99 fiscal year shall be allocated to support a new position and equipment needs of a regional coordinator for Area 3 of the State Soil and Water Conservation districts. Area 3 of the State Soil and Water Conservation districts includes the Neuse River Basin and the following 11 counties: Alamance, Caswell, Chatham, Guilford, Lee, Montgomery, Moore, Orange, Person, Randolph, and Rockingham.

Requested by: Representatives Mitchell, Baker, Carpenter, Yongue

MEADOW BRANCH WATER PROJECT AND DEEP CREEK PROJECT FUNDS DO NOT REVERT

Section 15.46. Section 107(b) of Chapter 561 of the 1993 Session Laws as rewritten by Section 26.1 of Chapter 507 of the 1995 Session Laws reads as rewritten:

"(b) Where the actual costs are different from the estimated costs under subsection (a) of this section, the Department may adjust the allocations among projects as needed. If any projects listed in subsection (a) of this section are delayed and the budgeted State funds cannot be used during the 1993-94 fiscal year, or if the projects listed in subsection (a) of this section are accomplished at a lower cost, the Department may use the resulting fund availability to fund:

- (1) Corps of Engineers project feasibility studies, or
- (2) Corps of Engineers projects whose schedules have advanced and require State matching funds in fiscal year 1993-94, or
- (3) State-local Water Resources Development Projects.

Funds, except those allocated in subdivisions (a)(14), (15), (16), and (17) of this section, not expended or encumbered for these purposes shall revert to the General Fund at the end of the 1994-95 fiscal year. The funds allocated in subdivisions (a)(14), ~~(15), (16), and (17)~~ and (16) of this section shall not revert until June 30, 1997. The funds allocated in subdivisions (15) and (17) of this section shall not revert until June 30, 1999."

Requested by: Representative Culp, Senator Perdue
RANDLEMAN DAM FUNDS AND LOWER NEUSE RIVER BASIN ASSOCIATION FUNDS DO NOT REVERT

Section 15.47. (a) Subsection (c) of Section 8 of Chapter 777 of the 1993 Session Laws, as rewritten by Section 26.2 of Chapter 507 of the 1995 Session Laws, reads as rewritten:

"(c) All funds appropriated in Chapter 769 of the 1993 Session Laws for the construction of Randleman Dam shall revert to the General Fund on October 1, 1997, October 1, 1999, if construction has not begun before that date."

(b) Section 27.8(a) of Chapter 18 of the 1995 Session Laws reads as rewritten:

"Sec. 27.8. (a) Of the funds appropriated by this act to the Lower Neuse River Basin Association for the 1996-97 fiscal year, the sum of two million dollars (\$2,000,000) shall be allocated as grants to local government units in the Neuse River Basin to assist those local government units in fulfilling their obligations under the Neuse River Nutrient Sensitive Waters Management Strategy plan adopted by the Environmental Management Commission. The funds are contingent upon the adoption of the plan by the Environmental Management Commission. If the Environmental Management Commission fails to adopt the plan by June 30, 1997, August 1, 1998, then the funds shall revert to the General Fund."

Requested by: Representatives Allred, Crawford
MULTI-COUNTY WATER CONSERVATION AND INFRASTRUCTURE DISTRICT

Section 15.48. (a) G.S. 158-15.1(f) reads as rewritten:

"(f) At times specified by the Multi-County Water Commission, net revenues after operating expenses of the District shall be paid only to Bertie, Granville, Halifax, Martin, Northampton, Person, Vance, and Warren Counties according to each of the fifteen member counties according to the

following formula: (i) one-half pro-rata based on the population located within the Roanoke River Basin area of each member county; and (ii) one-half pro-rata based on the land area located within the Roanoke River Basin area of each county. ~~The remaining member counties shall receive none of the net revenues received pursuant to subsection (d) of this section.~~

(b) G.S. 143-215.22G reads as rewritten:

"Part 2A. Registration of Water Withdrawals and Transfers; Regulation of Surface Water Transfers.

"§ 143-215.22G. *Definitions*.

In addition to the definitions set forth in G.S. 143-212 and G.S. 143-213, the following definitions apply to this Part.

(1) 'River basin' means any of the following river basins designated on the map entitled 'Major River Basins and Sub-basins in North Carolina' and filed in the Office of the Secretary of State on 16 April 1991: 1991. The term 'river basin' includes any portion of the river basin that extends into another state. Any area outside North Carolina that is not included in one of the river basins listed in this subdivision comprises a separate river basin.

- a. 1-1 Broad River.
- b. 2-1 Haw River.
- c. 2-2 Deep River.
- d. 2-3 Cape Fear River.
- e. 2-4 South River.
- f. 2-5 Northeast Cape Fear River.
- g. 2-6 New River.
- h. 3-1 Catawba River.
- i. 3-2 South Fork Catawba River.
- j. 4-1 Chowan River.
- k. 4-2 Meherrin River.
- l. 5-1 Nolichucky River.
- m. 5-2 French Broad River.
- n. 5-3 Pigeon River.
- o. 6-1 Hiwassee River.
- p. 7-1 Little Tennessee River.
- q. 7-2 Tuskasegee (Tuckasegee) River.
- r. 8-1 Savannah River.
- s. 9-1 Lumber River.
- t. 9-2 Big Shoe Heel Creek.
- u. 9-3 Waccamaw River.
- v. 9-4 Shallotte River.
- w. 10-1 Neuse River.
- x. 10-2 Contentnea Creek.
- y. 10-3 Trent River.
- z. 11-1 New River.
- aa. 12-1 Albemarle Sound.
- bb. 13-1 Ocoee River.
- cc. 14-1 Roanoke River.
- dd. 15-1 Tar River.
- ee. 15-2 Fishing Creek.

- ff. 15-3 Pamlico River and Sound.
 - gg. 16-1 Watauga River.
 - hh. 17-1 White Oak River.
 - ii. 18-1 Yadkin (Yadkin-Pee Dee) River.
 - jj. 18-2 South Yadkin River.
 - kk. 18-3 Uwharrie River.
 - ll. 18-4 Rocky River.
- (2) 'Surface water' means any of the waters of the State located on the land surface that are not derived by pumping from groundwater.
- (3) 'Transfer' means the withdrawal, diversion, or pumping of surface water from one river basin and discharge of all or any part of the water in a river basin different from the origin. However, notwithstanding the basin definitions in G.S. 143-215.22G(1), the following are not transfers under this Part:
- a. The discharge of water upstream from the point where it is withdrawn.
 - b. The discharge of water downstream from the point where it is withdrawn."

(c) G.S. 143-215.22I is amended by adding a new section to read:

"(k) The substantive restrictions and conditions upon surface water transfers authorized in this section may be imposed pursuant to any federal law that permits the State to certify, restrict, or condition any new or continuing transfers or related activities licensed, relicensed, or otherwise authorized by the federal government."

Requested by: Representative Baker, Senator Odom

SOLID WASTE OPERATOR COURSE EXEMPT/DEHNR POSITION FOR SCRAP TIRE PROGRAM

Section 15.49. (a) G.S. 130A-309.25 is amended by adding a new subsection to read:

"(f) This section does not apply to any operator of a solid waste management facility who has five years continuous experience as an operator of a solid waste management facility immediately preceding January 1, 1998, provided that the operator attends a course and completes the continuing education requirements approved by the Department."

(b) Notwithstanding the provisions of G.S. 130A-309.63, the Department of Environment, Health, and Natural Resources may use funds in the Scrap Tire Disposal Account that, pursuant to G.S. 130A-309.63(d), are to be used for the cleanup of scrap tire collection sites to establish and support a position for the 1997-98 fiscal year and for the 1998-99 fiscal year to provide regulatory assistance to local governments to develop programs to prevent scrap tires from outside the State from being presented for free disposal and to complete the cleanup of nuisance tire collection sites.

(c) Subsection (a) of this section is effective when this act becomes law.

Requested by: Senators Plyler, Perdue, Odom

AQUARIUM EXPANSION

Section 15.50. Funds are appropriated in this act to implement the expansion plans of one of the North Carolina aquariums. The General

Assembly may appropriate funds for the 1998-99 fiscal year to implement the expansion plans of the aquariums that do not receive funds for the 1997-98 fiscal year.

PART XVI. DEPARTMENT OF COMMERCE

Requested by: Representatives Mitchell, Baker, Carpenter, Fox, H. Hunter, Creech, Senators Martin of Pitt, Jenkins, Shaw of Guilford, Plyler, Perdue, Odom

WORKER TRAINING TRUST FUND APPROPRIATIONS

Section 16. (a) There is appropriated from the Worker Training Trust Fund to the Employment Security Commission of North Carolina the sum of six million six hundred eighty-nine thousand nine hundred sixty-four dollars (\$6,689,964) for the 1997-98 fiscal year and the sum of six million six hundred eighty-nine thousand nine hundred sixty-four dollars (\$6,689,964) for the 1998-99 fiscal year for the operation of local offices.

(b) Notwithstanding the provisions of G.S. 96-5(f), there is appropriated from the Worker Training Trust Fund to the following agencies the following sums for the 1997-98 and the 1998-99 fiscal years for the following purposes:

- (1) \$2,400,000 for the 1997-98 fiscal year and \$2,400,000 for the 1998-99 fiscal year to the Department of Commerce, Division of Employment and Training, for the Employment and Training Grant Program;
- (2) \$1,000,000 for the 1997-98 fiscal year and \$1,000,000 for the 1998-99 fiscal year to the Department of Labor for customized training of the unemployed and the working poor for specific jobs needed by employers through the Department's Bureau for Training Initiatives;
- (3) \$1,746,000 for the 1997-98 fiscal year and \$1,746,000 for the 1998-99 fiscal year to the Department of Community Colleges to continue the Focused Industrial Training Program;
- (4) \$225,000 for the 1997-98 fiscal year and \$225,000 for the 1998-99 fiscal year to the Employment Security Commission for the State Occupational Information Coordinating Committee to develop and operate an interagency system to track former participants in State education and training programs;
- (5) \$400,000 for the 1997-98 fiscal year and \$400,000 for the 1998-99 fiscal year to the Department of Community Colleges for a training program in entrepreneurial skills to be operated by North Carolina REAL Enterprises;
- (6) \$50,000 for the 1997-98 fiscal year and \$50,000 for the 1998-99 fiscal year to the Office of State Budget and Management to maintain compliance with Chapter 96 of the General Statutes, which directs the Office of State Budget and Management to employ the Common Follow-Up Management Information System to evaluate the effectiveness of the State's job training, education, and placement programs;

- (7) \$500,000 for the 1997-98 fiscal year and \$1,000,000 for the 1998-99 fiscal year to the Department of Labor to expand the Apprenticeship Program. It is intended that the appropriation of funds in this subdivision will result in the Department of Labor serving a benchmark performance level of 10,000 adult and youth apprentices by the year 2000; and
- (8) \$100,000 for the 1997-98 fiscal year and \$100,000 for the 1998-99 fiscal year to the State Board of Education for the Teacher Apprenticeship Program.

The State Board of Education may use funds appropriated from the Worker Training Trust Fund in this subdivision to design and implement a public school teacher apprenticeship program.

Requested by: Senator Martin of Pitt, Representatives Mitchell, Baker, Carpenter

JOB TRAINING STUDY COMMISSION

Section 16.1. (a) The General Assembly intends to reorganize the State's workforce development system to improve the delivery of job training programs and services in North Carolina.

(b) There is created a Legislative Study Commission on Job Training Programs. The purpose of the Commission is to review State and federally funded job training programs and services currently in existence to determine the feasibility of eliminating or consolidating those which are duplicative, inefficient, or ineffective in carrying out their purposes and activities.

(c) The Commission shall consist of six members appointed by the Speaker of the House of Representatives, at least three of whom shall be members of the House of Representatives, and six members appointed by the President Pro Tempore of the Senate, at least three of whom shall be members of the Senate. The Speaker shall designate one Representative as cochair and the President Pro Tempore shall designate one Senator as cochair. Vacancies on the Commission shall be filled by the same appointing officer who made the initial appointment. The Commission shall expire upon delivering its final report to the 1997 General Assembly (1998 Regular Session).

The Commission, while in the discharge of official duties, may exercise all powers provided for under the provisions of G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Commission may meet at any time upon the joint call of the cochairs. The Commission may meet in the Legislative Building or the Legislative Office Building. The Commission may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02.

The Legislative Services Commission, through the Legislative Administrative Officer, shall assign professional staff to assist the Commission in its work. The House of Representatives' and the Senate's Supervisors of Clerks shall assign clerical staff to the Commission, and the expenses relating to the clerical employees shall be borne by the Commission. Members of the Commission shall receive subsistence and

travel expenses at the rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

(d) The Commission shall have the following powers and duties:

- (1) To review State and federal laws, rules, and regulations pertaining to job training programs to determine the purpose of each program, the population served, and each program's annual outcomes in terms of type of training received, work search efforts, and job placement;
- (2) To ascertain as far as possible the intention of the United States Congress with respect to continued funding of federally mandated job training programs and any changes in funding formulae;
- (3) To review the amount of State and federal dollars appropriated for each job training program conducted in this State and to review federal requirements for continuous federal funding of the programs;
- (4) To review the number of different State agencies that administer State and federal job training programs, the number of persons employed to implement each job training program, and the amount of State dollars needed annually to implement the program;
- (5) To determine whether federally funded job training programs in this State may lawfully be abolished or reduced in size by the General Assembly, and the impact of such reduction or elimination;
- (6) To conduct public hearings to receive citizen, State agency, and local government comment and experience with the job training programs;
- (7) To conduct other studies or activities to aid the Commission in carrying out its purpose and duties, including reviewing reorganization and consolidation efforts in other states; and
- (8) To ensure program evaluation and accountability for all workforce development programs and to create a comprehensive statewide focus on workforce development.

(e) The Commission shall report to the 1997 General Assembly (1998 Regular Session), the Joint Legislative Commission on Governmental Operations, and the Joint Legislative Education Oversight Committee not later than May 1, 1998. The report shall identify each job training program operating in the State and recommend whether each program should be expanded, continued without change, abolished, consolidated with another program, or otherwise modified, including implementation components.

(f) All State departments and agencies and local governments and their subdivisions shall furnish the Commission with any information in their possession or available to them.

(g) Notwithstanding G.S. 96-5(f), there is appropriated from the Worker Training Trust Fund to the General Assembly the sum of fifty thousand dollars (\$50,000) for the 1997-98 fiscal year to implement this section.

Requested by: Senator Martin of Pitt, Representatives Mitchell, Baker, Carpenter

NC REAL ENTERPRISES REPORTING

Section 16.2. NC REAL Enterprises shall do the following:

- (1) By January 15, 1998, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
 - a. State fiscal year 1996-97 program activities, objectives, and accomplishments;
 - b. State fiscal year 1996-97 itemized expenditures and fund sources;
 - c. State fiscal year 1997-98 planned activities, objectives, and accomplishments including actual results through December 31, 1997; and
 - d. State fiscal year 1997-98 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 1997;
- (2) By January 15, 1999, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
 - a. State fiscal year 1997-98 program activities, objectives, and accomplishments;
 - b. State fiscal year 1997-98 itemized expenditures and fund sources;
 - c. State fiscal year 1998-99 planned activities, objectives, and accomplishments including actual results through December 31, 1998; and
 - d. State fiscal year 1998-99 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 1998; and
- (3) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

Requested by: Senator Martin of Pitt, Representatives Mitchell, Baker, Carpenter

SPECIAL EMPLOYMENT SECURITY ADMINISTRATION FUND

Section 16.3. (a) Notwithstanding G.S. 96-5(c), there is appropriated from the Special Employment Security Administration Fund to the Employment Security Commission of North Carolina, the sum of two million dollars (\$2,000,000) for the 1997-98 fiscal year and the sum of two million dollars (\$2,000,000) for the 1998-99 fiscal year for administration of the Employment Services and Unemployment Insurance Programs.

(b) Supplemental federal funds or other additional funds received by the Employment Security Commission for similar purposes shall be expended prior to the expenditure of funds appropriated by this section.

Requested by: Senator Martin of Pitt, Representatives Mitchell, Baker, Carpenter

INDUSTRIAL RECRUITMENT COMPETITIVE FUND

Section 16.4. (a) Funds appropriated in this act to the Department of Commerce for the Industrial Recruitment Competitive Fund shall be used to continue the Fund. The purpose of the Fund is to provide financial assistance to those businesses or industries deemed by the Governor to be vital to a healthy and growing State economy and that are making significant efforts to establish or expand in North Carolina. Monies allocated from the Fund shall be used for the following purposes:

- (1) Installation or purchase of equipment;
- (2) Structural repairs, improvements, or renovations of existing buildings to be used for expansion; and
- (3) Construction of or improvements to new or existing water, sewer, gas or electric utility distribution lines, or equipment for existing buildings.

Monies may also be used for construction of or improvements to new or existing water, sewer, gas or electric utility distribution lines, or equipment to serve new or proposed industrial buildings used for manufacturing and industrial operations. The Governor shall adopt guidelines and procedures for the commitment of monies from the Fund.

(b) The Department of Commerce shall report on or before October 1, 1997, and quarterly thereafter to the Joint Legislative Commission on Governmental Operations on the commitment, allocation, and use of funds allocated from the Industrial Recruitment Competitive Fund.

Requested by: Representatives Mitchell, Baker, Carpenter, H. Hunter, Senator Martin of Pitt

COUNCIL OF GOVERNMENT FUNDS

Section 16.5. (a) Of the funds appropriated in this act to the Department of Commerce, eight hundred sixty-four thousand two hundred seventy dollars (\$864,270) for the 1997-98 fiscal year and eight hundred sixty-four thousand two hundred seventy dollars (\$864,270) for the 1998-99 fiscal year shall only be used as provided by this section. Each regional council of government or lead regional organization is allocated up to forty-eight thousand fifteen dollars (\$48,015) for each fiscal year, with the actual amount calculated as provided in subsection (b) of this section.

(b) The funds shall be allocated as follows: A share of the maximum forty-eight thousand fifteen dollars (\$48,015) each fiscal year shall be allocated to each county and smaller city based on the most recent annual estimate of the Office of State Planning of the population of that county (less the population of any larger city within that county) or smaller city, divided by the sum of the total population of the region (less the population of larger cities within that region) and the total population of the region living in smaller cities. Those funds shall be paid to the regional council of government for the region in which that city or county is located upon receipt by the Department of Commerce of a resolution of the governing board of the county or city requesting release of the funds. If any city or county does not so request payment of funds by June 30 of a State fiscal year, that share of the allocation for that fiscal year shall revert to the General Fund.

(c) A regional council of government may use funds appropriated by this section only to assist local governments in grant applications, economic development, community development, support of local industrial development activities, and other activities as deemed appropriate by the member governments.

(d) Funds appropriated by this section shall not be used for payment of dues or assessments by the member governments and shall not supplant funds appropriated by the member governments.

(e) As used in this section, "Larger City" means an incorporated city with a population of 50,000 or over. "Smaller City" means any other incorporated city.

Requested by: Senator Martin of Pitt, Representatives Mitchell, Baker, Carpenter

PETROLEUM OVERCHARGE ATTORNEYS' FEES

Section 16.6. (a) Unless prohibited by federal law, rule, or regulation or preexisting settlement agreement, no later than October 1, 1989, the North Carolina Attorney General shall direct the withdrawal of all funds received in the cases of *United States v. Exxon* and *Stripper Well* that are held in accounts or reserves located out-of-state for payment of attorneys' fees and reasonable expenses incurred in connection with oil overcharge litigation authorized by the Attorney General. The Attorney General shall deposit these funds, and all funds to be received from Petroleum Overcharge Funds in the future for attorneys' fees and reasonable expenses, into the Special Reserve for Oil Overcharge Funds.

(b) All attorneys' fees and reasonable expenses incurred in connection with oil overcharge litigation shall be paid by the State Treasurer from Petroleum Overcharge Funds that have been received by this State and deposited into the Special Reserve for Oil Overcharge Funds.

(c) Notwithstanding any other provision of law, the Attorney General may authorize the payment of attorneys' fees and reasonable expenses from the Special Reserve for Oil Overcharge Funds without further action of the General Assembly, and funds are hereby appropriated from the Special Reserve for Oil Overcharge Funds for the 1997-98 fiscal year and for the 1998-99 fiscal year for that purpose.

Requested by: Senator Martin of Pitt, Representatives Mitchell, Baker, Carpenter

PETROLEUM OVERCHARGE FUNDS ALLOCATION

Section 16.7. (a) The funds and interest thereon received from the case of the *United States v. Exxon* are deposited in the Special Reserve for Oil Overcharge Funds. There is appropriated from the Special Reserve to the Department of Commerce the sum of one million two hundred thousand dollars (\$1,200,000) for the 1997-98 fiscal year and the sum of one million two hundred thousand dollars (\$1,200,000) for the 1998-99 fiscal year to be used for projects under the State Energy Efficiency Programs.

(b) There is appropriated from funds and interest thereon received from the United States Department of Energy's *Stripper Well* Litigation (MDL378) that remain in the Special Reserve for Oil Overcharge Funds to

the Department of Commerce the sum of one million dollars (\$1,000,000) for the 1997-98 fiscal year and the sum of one million eight hundred thousand dollars (\$1,800,000) for the 1998-99 fiscal year to be allocated for the Residential Energy Conservation Assistance Programs (RECAP).

(c) Any funds remaining in the Special Reserve for Oil Overcharge Funds after the allocations made pursuant to subsections (a) and (b) of this section may be expended only as authorized by the General Assembly. All interest or income accruing from all deposits or investments of cash balances shall be credited to the Special Reserve Oil Overcharge Funds.

(d) The funds and interest thereon received from the Diamond Shamrock Settlement that remain in a reserve in the Office of State Budget and Management for the Department of Commerce to administer the petroleum overcharge funds pursuant to Section 112 of Chapter 830 of the 1987 Session Laws shall continue to be available to the Department of Commerce on an as-needed basis.

(e) The Department of Commerce shall submit comprehensive annual reports to the General Assembly by May 15, 1998, and January 31, 1999, which detail the use of all Petroleum Overcharge Funds. Any State department or agency that has received Petroleum Overcharge Funds shall provide all information requested by the Department of Commerce for the purpose of preparing these reports.

Requested by: Senator Martin of Pitt, Representatives Mitchell, Baker, Carpenter, H. Hunter

INDUSTRIAL DEVELOPMENT FUND/LOCAL MATCH

Section 16.8. Local governments requesting financial assistance from the Industrial Development Fund that wish to request to be exempted from the local matching requirements placed on the receipt of this assistance shall demonstrate to the satisfaction of the Department of Commerce that it would be an economic hardship for the local government to match State assistance from the Fund with local funds. The Department shall develop guidelines for determining hardship.

Requested by: Senators Martin of Pitt, Plyler, Perdue, Odom, Representatives Mitchell, Baker, Carpenter, H. Hunter

INDUSTRIAL DEVELOPMENT FUND

Section 16.9. (a) Of the three million dollars (\$3,000,000) appropriated in this act to the Department of Commerce, Industrial Development Fund, for the 1997-98 fiscal year, the sum of two million dollars (\$2,000,000) shall be deposited to and used for the Utility Account established under G.S. 143B-437A(b1), and the sum of one million dollars (\$1,000,000) shall be allocated to Martin County as a grant-in-aid for a water and sewer project.

(b) In addition to the reporting requirements of G.S. 143B-437A, the Department of Commerce shall report annually to the General Assembly concerning the payments made from the Utility Account and the impact of the payments on job creation in the State. The Department of Commerce shall also report quarterly to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the use of the

moneys in the Utility Account including information regarding to whom payments were made, in what amounts, and for what purposes.

Requested by: Senator Martin of Pitt, Representatives Mitchell, Baker, Carpenter

REGIONAL COMMISSION REPORTS

Section 16.10. (a) Each regional economic development commission receiving a grant-in-aid from the Department of Commerce shall:

- (1) By January 15, 1998, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Department of Commerce the following information:
 - a. State fiscal year 1996-97 program activities, objectives, and accomplishments;
 - b. State fiscal year 1996-97 itemized expenditures and fund sources;
 - c. State fiscal year 1997-98 planned activities, objectives, and accomplishments as specified in subdivisions (b)(1) through (b)(6) of this section including actual results through December 31, 1997;
 - d. State fiscal year 1997-98 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 1997.
 - (2) By January 15, 1999, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Department of Commerce the following information:
 - a. State fiscal year 1997-98 program activities, objectives, and accomplishments;
 - b. State fiscal year 1997-98 itemized expenditures and fund sources;
 - c. State fiscal year 1998-99 planned activities, objectives, and accomplishments as specified in subdivisions (b)(1) through (b)(6) of this section including actual results through December 31, 1998;
 - d. State fiscal year 1998-99 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 1998.
 - (3) Provide to the Fiscal Research Division and the Department of Commerce a copy of its annual audited financial statement within 30 days of issuance of the statement.
- (b) Each regional economic development commission receiving a grant-in-aid from the Department of Commerce in each fiscal year of the 1997-99 biennium shall by the 25th day of the month following the end of a fiscal quarter, report to the Department of Commerce the following information for the most recent completed fiscal quarter:
- (1) The number of and description of marketing outreach events including trade shows, recruitment missions, and related activities;
 - (2) The number of inquiries, leads, and prospects generated;

- (3) The amount of investment and number of jobs created by the direct efforts of a commission;
- (4) The amount of investment and number of jobs created by the indirect efforts of a commission;
- (5) The number and listing of available sites and buildings within the region served by a commission;
- (6) A listing of major accomplishments.

Requested by: Senator Martin of Pitt, Representatives Mitchell, Baker, Carpenter

**REGIONAL ECONOMIC DEVELOPMENT COMMISSION
ALLOCATIONS**

Section 16.11. (a) Funds appropriated in this act to the Department of Commerce for regional economic development commissions shall be allocated to the following commissions in accordance with subsection (b) of this section: Western North Carolina Regional Economic Development Commission, Research Triangle Regional Commission, Southeastern North Carolina Regional Economic Development Commission, Piedmont Triad Partnership, Northeastern North Carolina Regional Economic Development Commission, Global TransPark Development Commission, and Carolinas Partnership, Inc.

(b) Funds appropriated pursuant to subsection (a) of this section shall be allocated to each regional economic development commission as follows:

- (1) First, the Department shall establish each commission's allocation by determining the sum of allocations to each county that is a member of that commission. Each county's allocation shall be determined by dividing the county's enterprise factor by the sum of the enterprise factors for eligible counties and multiplying the resulting percentage by the amount of the appropriation. As used in this subdivision, the term "enterprise factor" means a county's enterprise factor as calculated under G.S. 105-129.3;
- (2) Next, the Department shall subtract from funds allocated to the Global TransPark Development Zone the sum of two hundred seventy-six thousand nine hundred twenty-three dollars (\$276,923) in each fiscal year, which sum represents the interest earnings in each fiscal year on the estimated balance of seven million five hundred thousand dollars (\$7,500,000) appropriated to the Global TransPark Development Zone in Section 6 of Chapter 561 of the 1993 Session Laws; and
- (3) Next, the Department shall redistribute the sum of two hundred seventy-six thousand nine hundred twenty-three dollars (\$276,923) in each fiscal year to the seven regional economic development commissions named in subsection (a) of this section. Each commission's share of this redistribution shall be determined according to the enterprise factor formula set out in subdivision (1) of this subsection. This redistribution shall be in addition to each commission's allocation determined under subdivision (1) of this subsection.

Requested by: Senator Martin of Pitt, Representatives Mitchell, Baker, Carpenter, H. Hunter

TOURISM PROMOTION FUNDS

Section 16.12. Funds appropriated in this act to the Department of Commerce for tourism promotion grants shall be allocated according to per capita income, unemployment, and population growth in an effort to direct funds to counties most in need in terms of lowest per capita income, highest unemployment, and slowest population growth, in the following manner:

- (1) Counties 1 through 20 are each eligible to receive a maximum grant of \$7,500 for each fiscal year, provided these funds are matched on the basis of one non-State dollar for every four State dollars.
- (2) Counties 21 through 50 are each eligible to receive a maximum grant of \$3,500 for two of the next three fiscal years, provided these funds are matched on the basis of one non-State dollar for every three State dollars.
- (3) Counties 51 through 100 are each eligible to receive a maximum grant of \$3,500 for alternating fiscal years, beginning with the 1991-92 fiscal year, provided these funds are matched on the basis of four non-State dollars for every State dollar.

Requested by: Senators Martin of Pitt, Jenkins, Shaw of Guilford, Representatives Mitchell, Baker, Carpenter, Fox, H. Hunter

RURAL TOURISM DEVELOPMENT FUNDS

Section 16.13. Of the funds appropriated in this act to the Department of Commerce for the 1997-98 fiscal year, the sum of three hundred thousand dollars (\$300,000) shall be used for the Rural Tourism Development Grant Program. The Department shall establish and implement this Program to provide grants to local governments and nonprofit organizations to encourage the development of new tourism projects and activities in rural areas of the State. The Department shall develop procedures for the administration and distribution of funds allocated to the Rural Tourism Development Program under the following guidelines:

- (1) Eligible organizations shall make application under procedures established by the Department;
- (2) Eligible organizations shall be nonprofit tourism-related organizations located in the State's rural regions;
- (3) Priority shall be given to eligible organizations that have significant involvement of travel and tourism-related businesses;
- (4) Priority shall be given to eligible organizations serving economically distressed rural counties;
- (5) Priority shall be given to eligible organizations that match funds; and
- (6) Funds shall not be used for renting or purchasing land or buildings, or for financing debt.

No recipient or new tourism project shall receive a total of more than fifty thousand dollars (\$50,000) of these grant funds for the 1997-98 fiscal year.

Requested by: Representatives Mitchell, Baker, Carpenter
**NORTH CAROLINA ALLIANCE FOR COMPETITIVE TECHNOLOGIES
REPORT**

Section 16.14. The North Carolina Alliance for Competitive Technologies, a Division of the Department of Commerce, shall do the following:

- (1) By January 15, 1998, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
 - a. State fiscal year 1996-97 program activities, objectives, and accomplishments;
 - b. State fiscal year 1996-97 itemized expenditures and fund sources;
 - c. State fiscal year 1997-98 planned activities, objectives, and accomplishments including actual results through December 31, 1997; and
 - d. State fiscal year 1997-98 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 1997; and
- (2) By January 15, 1999, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
 - a. State fiscal year 1997-98 program activities, objectives, and accomplishments;
 - b. State fiscal year 1997-98 itemized expenditures and fund sources;
 - c. State fiscal year 1998-99 planned activities, objectives, and accomplishments including actual results through December 31, 1998; and
 - d. State fiscal year 1998-99 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 1998.

Requested by: Representatives Mitchell, Baker, Carpenter
**DIVISION OF EMPLOYMENT AND TRAINING AND COMMISSION
ON WORKFORCE PREPAREDNESS CONSOLIDATED**

Section 16.15. The Department of Commerce shall consolidate the functions, staff, and budget of the Commission on Workforce Preparedness into the Division of Employment and Training. In consolidating these departmental entities, the Department shall eliminate budget expenditures and personnel positions, including management, that are duplicative. To the maximum extent possible, the Department shall use the efficiencies realized from the consolidation of the entities and the elimination of duplicative positions and budget expenditures to increase funds available for job training for individuals eligible for services under State and federal programs administered by the Division of Employment and Training. The Department shall complete the consolidation required under this section not later than October 1, 1997, and shall report on the consolidation to the Joint

Legislative Commission on Governmental Operations and the Fiscal Research Division not later than November 1, 1997.

Requested by: Senator Martin of Pitt

WANCHESE SEAFOOD INDUSTRIAL PARK FUNDS

Section 16.16. Of the funds appropriated in this act to the Department of Commerce for the Wanchese Seafood Industrial Park, the sum of one hundred twenty-two thousand five hundred ninety-four dollars (\$122,594) for the 1997-98 fiscal year and the sum of one hundred twenty-two thousand five hundred ninety-four dollars (\$122,594) for the 1998-99 fiscal year may be expended by the North Carolina Seafood Industrial Park Authority for operations, maintenance, repair, and capital improvements in accordance with Article 23C of Chapter 113 of the General Statutes, in addition to funds available to the Authority for these purposes.

Requested by: Senators Martin of Pitt, Jenkins, Shaw of Guilford, Representatives Mitchell, Baker, Carpenter, Fox, H. Hunter

FUNDS FOR ECONOMIC DEVELOPMENT

Section 16.17. (a) Of the funds appropriated in this act to the Department of Commerce, the sum of one million nine hundred seventy-five thousand dollars (\$1,975,000) for the 1997-98 fiscal year shall be allocated as follows:

- (1) \$350,000 to the Land Loss Prevention Project, Inc., to provide free legal representation to low-income, financially distressed small farmers. The Land Loss Prevention Project, Inc., shall not use these funds to represent farmers who have income and assets that would make them financially ineligible for legal services pursuant to Title 45, Part 1611 of the Code of Federal Regulations;
 - (2) \$250,000 to the North Carolina Coalition of Farm and Rural Families, Inc., for its Small Farm Economic Development Project. These funds shall be used to foster economic development within the State's rural farm communities by offering marketing and technical assistance to small and limited resource farmers;
 - (3) \$1,000,000 to the North Carolina Institute of Minority Economic Development, Inc., to foster minority economic development within the State through policy analysis, information and technical assistance, resource expansion, and support of community-based demonstration initiatives; and
 - (4) \$375,000 to the North Carolina Minority Support Center (formerly known as the Minority Credit Union Support Center) for technical assistance to community-based minority credit unions.
- (b) Each of the nonprofit organizations receiving funds under this section shall:
- (1) By January 15, 1998, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
 - a. State fiscal year 1996-97 program activities, objectives, and accomplishments;

- b. State fiscal year 1996-97 itemized expenditures and fund sources;
 - c. State fiscal year 1997-98 planned activities, objectives, and accomplishments including actual results through December 31, 1997; and
 - d. State fiscal year 1997-98 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 1997.
- (2) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

Requested by: Senator Martin of Pitt, Representatives Mitchell, Baker, Carpenter, H. Hunter

TECHNOLOGICAL DEVELOPMENT AUTHORITY REPORT

Section 16.18. The Technological Development Authority, Inc., shall do the following:

- (1) By January 15, 1998, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
 - a. State fiscal year 1996-97 program activities, objectives, and accomplishments;
 - b. State fiscal year 1996-97 itemized expenditures and fund sources;
 - c. State fiscal year 1997-98 planned activities, objectives, and accomplishments including actual results through December 31, 1997; and
 - d. State fiscal year 1997-98 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 1997;
- (2) By January 15, 1999, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
 - a. State fiscal year 1997-98 program activities, objectives, and accomplishments;
 - b. State fiscal year 1997-98 itemized expenditures and fund sources;
 - c. State fiscal year 1998-99 planned activities, objectives, and accomplishments including actual results through December 31, 1998; and
 - d. State fiscal year 1998-99 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 1998; and
- (3) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

Requested by: Senator Martin of Pitt, Representatives Mitchell, Baker, Carpenter

WORLD TRADE CENTER FUNDS

Section 16.19. Of the funds appropriated in this act to the Department of Commerce, the sum of three hundred thousand dollars (\$300,000) for the 1997-98 fiscal year shall be allocated to the World Trade Center North Carolina (WTCNC) to support international trade education programs for small- and medium-sized businesses. The World Trade Center North Carolina shall:

- (1) By January 15, 1998, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
 - a. State fiscal year 1996-97 program activities, objectives, and accomplishments;
 - b. State fiscal year 1996-97 itemized expenditures and fund sources;
 - c. State fiscal year 1997-98 planned activities, objectives, and accomplishments including actual results through December 31, 1997;
 - d. State fiscal year 1997-98 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 1997.
- (2) Provide to the Fiscal Research Division a copy of the Center's annual audited financial statement within 30 days of issuance of the statement.

Requested by: Senator Martin of Pitt, Representatives Mitchell, Baker, Carpenter

CENTER FOR COMMUNITY SELF-HELP FUNDS

Section 16.20. (a) Of the funds appropriated in this act to the Department of Commerce, the sum of five million dollars (\$5,000,000) for the 1997-98 fiscal year shall be allocated to the Center for Community Self-Help to further a statewide program of lending for home ownership throughout North Carolina. These funds will be leveraged on a ten-to-one basis, generating at least ten dollars (\$10.00) of nontraditional home loans for every one dollar (\$1.00) of State funds. Payments of principal shall be available for further loans or loan guarantees.

(b) The Center for Community Self-Help shall submit, within 180 days after the close of its fiscal year, audited financial statements to the State Auditor. All records pertaining to the use of State funds shall be made available to the State Auditor upon request. The Center for Community Self-Help shall make quarterly reports on the use of State funds to the State Auditor, in form and format prescribed by the State Auditor or his designee. The Center for Community Self-Help shall make a written report by May 1 of each year for the next three years to the General Assembly on the use of the funds allocated under this section.

(c) The Center for Community Self-Help shall report to the Joint Legislative Commission on Governmental Operations, the House Appropriations Subcommittee on Natural and Economic Resources, the Senate Appropriations Committee on Natural and Economic Resources, and the Department of Commerce on a quarterly basis for the next three years.

(d) The Office of the State Auditor may conduct an annual end-of-year audit of the revolving fund for economic development lending created by this appropriation for each year of the life of the revolving fund.

(e) If the Center for Community Self-Help dissolves, the corporation shall transfer the remaining assets of the revolving fund to the State and shall refrain from disposing of the revolving fund assets without approval of the State Treasurer.

(f) The Department of Commerce shall disburse this appropriation within 15 working days of the receipt of a request for the funds from the Center for Community Self-Help. The request shall include a commitment of the leveraged funds by the Center for Community Self-Help or its affiliates.

Requested by: Senator Martin of Pitt, Representatives Mitchell, Baker, Carpenter
MCNC

Section 16.21. (a) MCNC shall report on all of its programs including contractual services for the Supercomputer and the Research and Education Network. The reports shall:

- (1) By January 15, 1998, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
 - a. State fiscal year 1996-97 program activities, objectives, and accomplishments;
 - b. State fiscal year 1996-97 itemized expenditures and fund sources;
 - c. State fiscal year 1997-98 planned activities, objectives, and accomplishments including actual results through December 31, 1997;
 - d. State fiscal year 1997-98 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 1997.
 - e. The users, major projects and benefits resulting from the activities of the Supercomputer and the Research and Education Network.
 - f. The organization's progress toward achieving self-sufficiency by July 1, 1999.
- (2) By January 15, 1999, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
 - a. State fiscal year 1997-98 program activities, objectives, and accomplishments;
 - b. State fiscal year 1997-98 itemized expenditures and fund sources;
 - c. State fiscal year 1998-99 planned activities, objectives, and accomplishments including actual results through December 31, 1998;

- d. State fiscal year 1998-99 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 1998.
 - e. The users, major projects and benefits resulting from the activities of the Supercomputer and the Research and Education Network.
 - f. The organization's progress toward achieving self-sufficiency by July 1, 1999.
- (3) Provide to the Fiscal Research Division a copy of MCNC's annual audited financial statement within 30 days of issuance of the statement.
- (b) The funds appropriated in this act to MCNC shall be used as follows:

	<u>FY 1997-98</u>	<u>FY 1998-99</u>
Electronic and Information Technologies Programs	\$4,500,000	\$2,500,000
(c) Of the funds appropriated for the Electronic and Information Technologies Programs, four million five hundred thousand dollars (\$4,500,000) for the 1997-98 fiscal year and two million five hundred thousand dollars (\$2,500,000) for the 1998-99 fiscal year is contingent upon a dollar-for-dollar match in non-State funds.		

Requested by: Senator Martin of Pitt, Representatives Mitchell, Baker, Carpenter

BIOTECHNOLOGY CENTER

Section 16.22. (a) The North Carolina Biotechnology Center shall recapture funds spent in support of successful research and development efforts in the for-profit private sector.

(b) The North Carolina Biotechnology Center shall provide funding for biotechnology, biomedical, and related bioscience applications under its Business and Science Technology Programs.

(c) The North Carolina Biotechnology Center shall:

- (1) By January 15, 1998, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
 - a. State fiscal year 1996-97 program activities, objectives, and accomplishments;
 - b. State fiscal year 1996-97 itemized expenditures and fund sources;
 - c. state fiscal year 1997-98 planned activities, objectives, and accomplishments including actual results through December 31, 1997; and
 - d. State fiscal year 1997-98 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 1997.
- (2) By January 15, 1999, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

- a. State fiscal year 1997-98 program activities, objectives, and accomplishments;
 - b. State fiscal year 1997-98 itemized expenditures and fund sources;
 - c. State fiscal year 1998-99 planned activities, objectives, and accomplishments including actual results through December 31, 1998; and
 - d. State fiscal year 1998-99 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 1998.
- (3) Provide to the Fiscal Research Division a copy of the Center's annual audited financial statement within 30 days of issuance of the statement.

(d) The North Carolina Biotechnology Center shall provide a report containing detailed budget, personnel, and salary information to the Office of State Budget and Management and to the Fiscal Research Division in the same manner as State departments and agencies in preparation for biennium budget requests.

Requested by: Senator Martin of Pitt, Representatives Mitchell, Baker, Carpenter, H. Hunter

BIOTECHNOLOGY FUNDS FOR MINORITY UNIVERSITIES

Section 16.23. Of the funds appropriated in this act from the General Fund to the North Carolina Biotechnology Center, the sum of two million dollars (\$2,000,000) for the 1997-98 fiscal year and the sum of one million dollars (\$1,000,000) for the 1998-99 fiscal year shall be used to continue the special biotechnology program initiative for North Carolina's Public Historically Black Colleges and Universities and the University of North Carolina at Pembroke. This program initiative is a means to get more funds to these institutions of higher education in the short run to help them develop their biotechnology programs and a means to develop a mechanism to improve these institutions' capacity over the long term. The Center's special initiative shall, at a minimum, provide for:

- (1) A range of program activities, including grants, designed to enhance the existing strengths and capabilities of the University of North Carolina at Pembroke and North Carolina's Public Historically Black Colleges and Universities;
- (2) A Facilities and Infrastructure Review Committee to advise the Center on major program elements and priority projects that would be most helpful to these institutions; and
- (3) A Program Advisory Panel with representation from these institutions to advise and make recommendations to the Center's President and Board of Directors on funding proposals under this initiative.

The Center shall report on its biotechnology program grants to universities to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on or before March 1 of each fiscal year, and more frequently as requested by the Commission. These reports shall include the current number of enrollments and the capacity of enrollments

in the biotechnology program in each of the universities, the number of faculty in the biotechnology program in each of the universities, whether and to what extent the enrollments, capacity, and number of faculty have changed in the last three academic years in the biotechnology program in each of the universities, how the funds allocated by this section are being used in each of the universities, and any other information that indicates whether these grants are accomplishing their purpose.

Requested by: Senator Martin, Plyler, Perdue, Odom, Representatives Mitchell, Baker, Carpenter, H. Hunter

RURAL ECONOMIC DEVELOPMENT CENTER

Section 16.24. (a) Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of one million two hundred seventy thousand dollars (\$1,270,000) for the 1997-98 fiscal year and the sum of one million two hundred seventy thousand dollars (\$1,270,000) for the 1998-99 fiscal year shall be allocated as follows:

	1997-98 FY	1998-99 FY
Research and Demonstration Grants	\$475,864	\$475,864
Technical Assistance and Center Administration of Research and Demonstration Grants	444,136	444,136
Center Administration, Oversight, and Other Programs	350,000	350,000

(b) The Rural Economic Development Center, Inc., shall provide a report containing detailed budget, personnel, and salary information to the Office of State Budget and Management in the same manner as State departments and agencies in preparation for biennium budget requests.

(c) Not more than fifty percent (50%) of the interest earned on State funds appropriated to the Rural Economic Development Center, Inc., may be used by the Center for administrative purposes, including salaries and fringe benefits.

(d) For purposes of this section, the term "community development corporation" means a nonprofit corporation:

- (1) Chartered pursuant to Chapter 55A of the General Statutes;
- (2) Tax-exempt pursuant to section 501(c)(3) of the Internal Revenue Code of 1986;
- (3) Whose primary mission is to develop and improve low-income communities and neighborhoods through economic and related development;
- (4) Whose activities and decisions are initiated, managed, and controlled by the constituents of those local communities; and
- (5) Whose primary function is to act as deal-maker and packager of projects and activities that will increase their constituencies' opportunities to become owners, managers, and producers of small businesses, affordable housing, and jobs designed to produce positive cash flow and curb blight in the targeted community.

(e) Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of five million seven hundred fifty thousand dollars (\$5,750,000) for the 1997-98 fiscal year and the sum of

two million four hundred thousand dollars (\$2,400,000) for the 1998-99 fiscal year shall be allocated as follows:

- (1) \$1,400,000 in fiscal year 1997-98 and \$1,200,000 in fiscal year 1998-99 for community development grants to support development projects and activities within the State's minority communities. Any community development corporation as defined in this section is eligible to apply for funds. The Rural Economic Development Center, Inc., shall establish performance-based criteria for determining which community development corporation will receive a grant and the grant amount. Funding shall also be allocated to the North Carolina Association of Community Development Corporations, Inc. The Rural Economic Development Center, Inc., shall allocate these funds as follows:
 - a. \$900,000 in each fiscal year for direct grants to the local community development corporations that have previously received State funds for this purpose to support operations and project activities;
 - b. \$250,000 in each fiscal year for direct grants to local community development corporations that have not previously received State funds;
 - c. \$200,000 in fiscal year 1997-98 to the North Carolina Association of Community Development Corporations, Inc., to provide training, technical assistance, resource development, and support for local community development corporations statewide; and
 - d. \$50,000 in each fiscal year to the Rural Economic Development Center, Inc., to be used to cover expenses in administering this section.
- (2) \$250,000 in each fiscal year to the Microenterprise Loan Program to support the loan fund and operations of the Program; and
- (3) \$4,100,000 for the 1997-98 fiscal year and \$950,000 for the 1998-99 fiscal year shall be used for a program to provide supplemental funding for matching requirements for projects and activities authorized under this subdivision. The Center shall use these funds to make grants to local governments and nonprofit corporations to provide funds necessary to match federal grants or other grants for:
 - a. Necessary economic development projects and activities in economically distressed areas, or
 - b. Necessary water and sewer projects and activities in economically distressed communities to address health or environmental quality problems except that funds shall not be expended for the repair or replacement of low pressure pipe wastewater systems. If a grant is awarded under this subdivision, then the grant shall be matched on a dollar for dollar basis in the amount of the grant awarded.

The grant recipients in this subsection shall be selected on the basis of need.

- (f) The Rural Economic Development Center, Inc., shall:

- (1) By January 15, 1998, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
 - a. State fiscal year 1996-97 program activities, objectives, and accomplishments;
 - b. State fiscal year 1996-97 itemized expenditures and fund sources;
 - c. State fiscal year 1997-98 planned activities, objectives, and accomplishments including actual results through December 31, 1997; and
 - d. State fiscal year 1997-98 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 1997.
- (2) By January 15, 1999, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
 - a. State fiscal year 1997-98 program activities, objectives, and accomplishments;
 - b. State fiscal year 1997-98 itemized expenditures and fund sources;
 - c. State fiscal year 1998-99 planned activities, objectives, and accomplishments including actual results through December 31, 1998; and
 - d. State fiscal year 1998-99 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 1998.
- (3) Provide to the Fiscal Research Division a copy of each grant recipient's annual audited financial statement within 30 days of issuance of the statement.

Requested by: Senator Martin of Pitt, Representatives Mitchell, Baker, Carpenter

OPPORTUNITIES INDUSTRIALIZATION CENTER FUNDS

Section 16.25. (a) Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of two hundred fifty thousand dollars (\$250,000) for the 1997-98 fiscal year and the sum of two hundred fifty thousand dollars (\$250,000) for the 1998-99 fiscal year shall be allocated as follows:

- (1) \$50,000 in each fiscal year to the Opportunities Industrialization Center of Wilson, Inc., for its ongoing job training programs;
- (2) \$50,000 in each fiscal year to Opportunities Industrialization Center, Inc., in Rocky Mount, for its ongoing job training programs;
- (3) \$50,000 in each fiscal year to Pitt-Greenville Opportunities Industrialization Center, Inc., for its ongoing job training programs;
- (4) \$50,000 in each fiscal year to the Opportunities Industrialization Center of Lenoir, Green, and Jones Counties; and

- (5) \$50,000 in each fiscal year to the Opportunities Industrialization Center of Elizabeth City, Inc.
- (b) The Rural Economic Development Center, Inc., shall:
- (1) By January 15, 1998, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
 - a. State fiscal year 1996-97 program activities, objectives, and accomplishments;
 - b. State fiscal year 1996-97 itemized expenditures and fund sources;
 - c. State fiscal year 1997-98 planned activities, objectives, and accomplishments including actual results through December 31, 1997;
 - d. State fiscal year 1997-98 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 1997.
 - (2) By January 15, 1999, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
 - a. State fiscal year 1997-98 program activities, objectives, and accomplishments;
 - b. State fiscal year 1997-98 itemized expenditures and fund sources;
 - c. State fiscal year 1998-99 planned activities, objectives, and accomplishments including actual results through December 31, 1998;
 - d. State fiscal year 1998-99 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 1998.
 - (3) Provide to the Fiscal Research Division a copy of the annual audited financial statements of the Opportunities Industrialization Centers funded by this act within 30 days of issuance of the statement.

Requested by: Representatives Mitchell, Baker, Carpenter, H. Hunter, Senator Martin of Pitt

COMMUNITY DEVELOPMENT INITIATIVE

Section 16.26. Of the funds appropriated in this act to the Department of Commerce, the sum of two million dollars (\$2,000,000) for fiscal year 1997-98 and the sum of two million dollars (\$2,000,000) for fiscal year 1998-99 shall be used to support the grant and loan fund and operations of the North Carolina Community Development Initiative, Inc. The Initiative shall provide operating and project activity grants to mature community development corporations that have demonstrated project and organizational capacity.

The North Carolina Community Development Initiative, Inc., shall:

- (1) By January 15, 1998, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

- a. State fiscal year 1996-97 program activities, objectives, and accomplishments;
 - b. State fiscal year 1996-97 itemized expenditures and fund sources;
 - c. State fiscal year 1997-98 planned activities, objectives, and accomplishments including actual results through December 31, 1997;
 - d. State fiscal year 1997-98 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 1997.
- (2) By January 15, 1999, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
- a. State fiscal year 1997-98 program activities, objectives, and accomplishments;
 - b. State fiscal year 1997-98 itemized expenditures and fund sources;
 - c. State fiscal year 1998-99 planned activities, objectives, and accomplishments including actual results through December 31, 1998;
 - d. State fiscal year 1998-99 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 1998.
- (3) Provide to the Fiscal Research Division a copy of the Initiative's annual audited financial statement within 30 days of issuance of the statement.

Requested by: Senators Conder, Plyler, Odom

RECREATION DISTRICT AND ENTERTAINMENT ESTABLISHMENT ABC PERMITS

Section 16.27. (a) G.S. 18B-1006(j) reads as rewritten:

"(j) Recreation Districts. -- Notwithstanding the provisions of Article 6 of this Chapter, the Commission may issue permits for the sale of malt beverages, unfortified wine, fortified wine, and mixed beverages to qualified businesses in a recreation district.

A 'recreation district' ~~is an~~ is:

- (1) An area that is located in a county that has not approved the issuance of permits, has at least two cities that have approved the sale of malt beverages, wine, and the operation of an ABC store, and contains a facility of at least 450 acres where five or more public auto racing events are held each year. ~~The recreation district includes the area within a half-mile radius of the racing facility.~~ year; or
- (2) An area that is located in a county that borders a county which has held elections pursuant to G.S. 18B-600(f) and borders on another state and which (i) contains a facility of at least 225 acres where four or more public auto racing events are held each year or (ii) contains a facility of at least 140 acres where 80 or more motor sports events are held each year.

The recreation district includes the area within a half-mile radius of the racing facility."

(b) G.S. 18B-101(14a) reads as rewritten:

"(14a) 'Tourism ABC establishment' means a restaurant or hotel that meets both of the following requirements:

- a. Is located on property, a property line of which is located within 1.5 miles of the end of an entrance or exit ramp of a junction on a national scenic parkway designed to attract local, State, national, and international tourists between Milepost 305 and 460.
- b. Is located in a county in which the on-premises sale of malt beverages or unfortified wine is authorized in at least one city."

Requested by: Senator Lee

GUEST ROOM CABINETS FOR CERTAIN PRIVATE CLUBS

Section 16.28. G.S. 18B-1001(13) reads as rewritten:

"(13) Guest Room Cabinet Permit. -- A guest room cabinet permit authorizes a hotel having a mixed beverages permit or a private club having a mixed beverages permit and management contracts for the rental of living units to sell to its room guests, from securely locked cabinets, malt beverages, unfortified wine, fortified wine, and spirituous liquor. A permittee shall designate and maintain at least ten percent (10%) of the permittee's guest rooms as rooms that do not have a guest room cabinet. A permittee may dispense alcoholic beverages from a guest room cabinet only in accordance with written policies and procedures filed with and approved by the Commission. A permittee shall provide a reasonable number of vending machines, coolers, or similar machines on premises for the sale of soft drinks to hotel guests.

A guest room cabinet permit may be issued for any of the following:

- a. A hotel located in a county subject to G.S. 18B-600(f).
- b. A hotel located in a county that has a population in excess of 150,000 by the last federal census.
- c. A qualifying private club located in a county defined in G.S. 18B-101(13a)b.2."

PART XVII. DEPARTMENT OF LABOR

Requested by: Representatives Mitchell, Baker, Carpenter, Owens
OSHA TECHNICAL ASSISTANCE

Section 17. (a) Article 22 of Chapter 95 of the General Statutes is amended by adding a new section to read:

"§ 95-255.1. Technical assistance.

Employers notified pursuant to G.S. 95-255(a) shall be offered technical assistance from the Division of Occupational Safety and Health to reduce injuries and illnesses in their workplaces."

(b) G.S. 95-136.1(b) reads as rewritten:

"(b) The Department shall develop and implement a special emphasis inspection program that targets for special emphasis inspection employers who:

- (1) Have a high rate of serious or willful violations of any standard, rule, order, or other requirement under this Article, or of regulations prescribed pursuant to the Federal Occupational Safety and Health Act of 1970, in a one-year period;
- (2) Have a high rate of work-related deaths, or a high rate of work-related serious injuries or illnesses, in a one-year period; or
- (3) Are engaged in a type of industry determined by the Department to be at high risk for serious or fatal work-related injuries or illnesses; or illnesses.
- ~~(4) Have an experience modification rating established for workers' compensation premium rates that is significantly higher than the State average. For purposes of targeting employers under this subdivision, the Department, in consultation with the North Carolina Rate Bureau and the Commissioner of Insurance, shall set the experience modification rating threshold for determining a rating that is significantly higher than the State average.~~

To identify an employer for a special emphasis inspection, the Department shall use the most current data available from its own database and from other sources, including State departments, divisions, boards, commissions, and other State entities. The Department shall ensure that every employer targeted for a special emphasis inspection is inspected at least one time within the two-year period following targeting of the employer by the Department. The Department shall update its special emphasis inspection records at least annually."

(c) The Department of Labor shall use up to the sum of four hundred fifty thousand dollars (\$450,000) in additional federal funds received from the United States Department of Labor under the federal OSHA 23(g) grant to provide technical assistance to employers notified pursuant to G.S. 95-255(a).

PART XVIII. JUDICIAL DEPARTMENT

Requested by: Senator Gulley, Representatives Justus, Kiser, Thompson
TRANSFER OF EQUIPMENT AND SUPPLY FUNDS

Section 18. Funds appropriated to the Judicial Department in the 1997-99 biennium for equipment and supplies shall be certified in a reserve account. The Administrative Office of the Courts shall have the authority to transfer these funds to the appropriate programs and between programs as the equipment priorities and supply consumptions occur during the operating year. These funds shall not be expended for any other purpose. The Administrative Office of the Courts shall make quarterly reports on transfers made pursuant to this section to the Joint Legislative Commission on Governmental Operations and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety.

Requested by: Senators Gulley, Ballance

N.C. STATE BAR FUNDS

Section 18.1. (a) Of the funds appropriated in the continuation budget as a grant-in-aid to the North Carolina State Bar for the 1997-99 fiscal biennium, the North Carolina State Bar may in its discretion use up to the sum of two hundred fifty thousand dollars (\$250,000) for the 1997-98 fiscal year and up to the sum of two hundred fifty thousand dollars (\$250,000) for the 1998-99 fiscal year to contract with the Center for Death Penalty Litigation to provide training, consultation, brief banking, and other assistance to attorneys representing indigent capital defendants.

(b) Of the nonrecurring funds appropriated in the expansion budget as a grant-in-aid to the North Carolina State Bar for the 1997-98 fiscal year, the North Carolina State Bar may in its discretion use up to the sum of two hundred fifty thousand dollars (\$250,000) to contract with the Center for Death Penalty Litigation to provide training, consultation, brief banking, and other assistance to attorneys representing indigent capital defendants.

Requested by: Senator Gulley, Representatives Justus, Kiser, Thompson

INDIGENT PERSONS' ATTORNEY FEE FUND

Section 18.2. (a) Effective July 1, 1997, the Administrative Office of the Courts shall each year of the 1997-99 biennium reserve funds for adult, juvenile, and guardian ad litem cases from the Indigent Persons' Attorney Fee Fund. These funds shall be allotted to each judicial district in which the superior and district courts are coterminous, and otherwise by county, according to the caseload of indigent persons who were not represented by the public defender in the districts or counties during 1996-97 and 1997-98, respectively. The remaining available funds in the Indigent Persons' Attorney Fee Fund shall be budgeted for capital cases and for transcripts, professional examinations, expert witness fees, and other supporting services.

The Administrative Office of the Courts shall notify all senior resident superior court judges, all chief district court judges, and the clerk of superior court within the district or county immediately after the allotment is made and shall provide a monthly report on the status of the allotment for the district or county.

The senior resident superior court judge and the chief district court judge of each district or county shall ask all judges holding court within the district or county: (i) to take into consideration the amount of money allotted at the beginning of the fiscal year and the amount of money remaining in the allotment when they award counsel fees to attorneys of indigent persons, and (ii) to make an effort to award fees equally and justly for legal services provided. The clerk of superior court for each county shall ensure that all judges holding court within the county receive this request from the senior resident superior court judge and the chief district court judge.

(b) If the funds allotted pursuant to subsection (a) of this section are depleted in a district or county prior to the end of the fiscal year, the Administrative Office of the Courts shall allot any available funds from the reserve fund specified in subsection (a) or from unanticipated receipts.

However, if necessary and appropriate due to unusual and unanticipated circumstances occurring in the current year, the Administrative Office of the Courts may allocate available funds to a district or county in a manner calculated to result in the reasonably fair distribution of remaining funds.

(c) If funds allocated in subsections (a) and (b) of this section are depleted in a district or county prior to the end of the fiscal year, the Administrative Office of the Courts shall allot available funds from the Public Defender program.

(d) If the funds allotted pursuant to subsections (a), (b), and (c) of this section are depleted in a district or county prior to the end of the fiscal year, the Administrative Office of the Courts is authorized to transfer funds between districts or counties only if the Administrative Office of the Courts determines that the funds transferred will not be needed to meet the obligations incurred by the Indigent Persons' Attorney Fee Fund for the county or district from which the funds are transferred for the fiscal year.

Requested by: Senator Gulley, Representatives Justus, Kiser, Thompson
REPORT ON DISPUTE SETTLEMENT CENTERS

Section 18.3. (a) All local dispute settlement centers currently receiving State funds shall report annually to the Judicial Department on the program's funding and activities, including:

- (1) Types of dispute settlement services provided;
- (2) Clients receiving each type of dispute settlement service;
- (3) Number and type of referrals received, cases actually mediated, cases resolved in mediation, and total clients served in the cases mediated;
- (4) Total program funding and funding sources;
- (5) Itemization of the use of funds, including operating expenses and personnel;
- (6) Itemization of the use of State funds appropriated to the center;
- (7) Level of volunteer activity; and
- (8) Identification of future service demands and budget requirements.

The Judicial Department shall compile and summarize the information provided pursuant to this subsection and shall provide the information to the Chairs of the House and Senate Appropriations Committees and the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety by February 1 of each year.

(b) A local dispute settlement center requesting State funds for the first time shall provide the General Assembly with the information enumerated in subsection (a) of this section, or projections where historical data are not available, as well as a detailed statement justifying the need for State funding.

(c) Each local dispute settlement center receiving State funds for the first time shall document in the information provided pursuant to G.S. 7A-346.1 that, after the second year of receiving State funds, at least ten percent (10%) of total funding comes from non-State sources.

(d) Each local dispute settlement center receiving State funds for the third, fourth, or fifth year shall document that at least twenty percent (20%) of total funding comes from non-State sources.

(e) Each local dispute settlement center receiving State funds for six or more years shall document that at least fifty percent (50%) of total funding comes from non-State sources.

(f) Each local dispute settlement center currently receiving State funds that has achieved a funding level from non-State sources greater than that provided for that center by subsection (c), (d), or (e) of this section shall make a good faith effort to maintain that level of funding.

(g) The percentage that State funds comprise of the total funding of each dispute settlement center shall be determined at the conclusion of each fiscal year with the information provided pursuant to G.S. 7A-346.1 and is intended as a funding ratio and not a matching funds requirement. Local dispute settlement centers may include the market value of donated office space, utilities, and professional legal and accounting services in determining total funding.

(h) A local dispute settlement center having difficulty meeting the funding ratio provided for that center by subsection (c), (d), or (e) of this section may request a waiver or special consideration through the Administrative Office of the Courts for consideration by the Senate and House Appropriations Subcommittees on Justice and Public Safety.

(i) The provisions of G.S. 143-31.4 do not apply to local dispute settlement centers receiving State funds.

Requested by: Senators Gulley, Ballance, Rand, Representatives Justus, Kiser, Thompson, Hill

COMMUNITY PENALTIES PROGRAM

Section 18.4. (a) Of the funds appropriated from the General Fund to the Judicial Department for the 1997-99 biennium to conduct the Community Penalties Program, the sum of four million three hundred fifty-five thousand three hundred eighty-two dollars (\$4,355,382) for the 1997-98 fiscal year and the sum of four million three hundred fifty-five thousand three hundred eighty-two dollars (\$4,355,382) for the 1998-99 fiscal year may be allocated by the Judicial Department in each year of the biennium in any amount among existing community penalties programs, including any State-operated programs, or may be used to establish new community penalties programs.

(b) The Judicial Department shall report annually to the Senate and House Appropriations Subcommittees on Justice and Public Safety and to the Fiscal Research Division on the administrative expenditures of the community penalties programs. The Judicial Department shall report quarterly to the Joint Legislative Commission on Governmental Operations on any elimination or reduction of funding for community penalties programs funded in the 1996-97 fiscal year or any program receiving initial funding during the 1997-99 biennium.

Requested by: Senators Gulley, Ballance
DRUG TREATMENT COURT FUNDS

Section 18.5. (a) Funds appropriated to the Judicial Department for the 1997-98 fiscal year for the North Carolina Drug Treatment Court Program shall be used primarily for substance abuse treatment and related

program needs, but the sum of fifty-two thousand five hundred fifty-one dollars (\$52,551) may be used to fund one program administrator position.

(b) Of the funds appropriated to the Judicial Department in the 1996-97 fiscal year for the North Carolina Drug Treatment Court Program, the sum of one hundred thousand dollars (\$100,000) shall not revert at the end of the fiscal year, but shall remain in the Department during the 1997-98 fiscal year to be used for nonrecurring program items.

(c) Subsection (b) of this section becomes effective June 30, 1997.

Requested by: Senators Gulley, Ballance, Representatives Justus, Kiser, Thompson

MAKE SENTENCING COMMISSION PERMANENT

Section 18.6. (a) Section 8 of Chapter 1076 of the 1989 Session Laws, as amended by Chapters 812 and 816 of the 1991 Session Laws, Chapters 253, 321, and 591 of the 1993 Session Laws, and Chapter 236 of the 1995 Session Laws, reads as rewritten:

"Sec. 8. This act is effective upon ~~ratification, and shall expire June 30, 1997, ratification.~~"

(b) G.S. 164-38 reads as rewritten:

"§ 164-38. *Terms of members; compensation; expenses.*

The terms of existing members shall expire on June 30, ~~1995, 1997,~~ unless they resign or are removed. New members shall be appointed or the existing members reappointed by the appointing authorities to serve ~~until July 1, 1997,~~ terms of two years, unless they resign or are removed. Members serving by virtue of elective or appointive office or as designees of such officeholders may serve only so long as the officeholders hold those respective offices. Members appointed by the Speaker of the House and the President Pro Tempore of the Senate may be removed by the appointing authority without cause. Vacancies occurring before the expiration of a term shall be filled in the manner provided for the members first appointed. A member of the Commission may be removed only for disability, neglect of duty, incompetence, or malfeasance in office. Before removal, the member is entitled to a hearing. Effective with respect to members designated on or after July 1, 1992, a person making a designation pursuant to G.S. 164-37 may not make another designation, except that the person's successor in elective or appointive office may make a new designation.

The Commission members shall receive no salary for serving. All Commission members shall receive necessary subsistence and travel expenses in accordance with the provisions of G.S. 120-3.1, 138-5, and 138-6 as applicable."

(c) G.S. 164-36 reads as rewritten:

"§ 164-36. *Powers and duties.*

Sentences established for violations of the State's criminal laws should be based on the established purposes of our criminal justice and corrections systems. The Commission shall evaluate sentencing laws and policies in relationship to both the stated purposes of the criminal justice and corrections systems and the availability of sentencing options. The Commission shall make recommendations to the General Assembly for the modification of sentencing laws and policies, and for the addition, deletion,

or expansion of sentencing options as necessary to achieve policy goals. The Commission shall make a report of its recommendations, including any recommended legislation, to the General Assembly annually."

Requested by: Representatives Justus, Kiser, Thompson, Hill, Senators Gulley, Ballance, Rand
VICTIMS' RIGHTS AMENDMENT/ASSISTANTS FOR ADMINISTRATIVE AND VICTIM AND WITNESS SERVICES

Section 18.7. (a) The assistants for administrative and victim and witness services funded in this act are intended to support the implementation of the Victims' Rights Amendment to the North Carolina Constitution and to address the current workload. These positions shall be allocated on the basis of workload and population. The Judicial Department shall report to the Joint Legislative Commission on Governmental Operations on the allocation of these positions by March 1, 1998.

(b) Of the funds appropriated to the Judicial Department for the 1997-99 biennium for assistants for administrative and victim and witness services, the sum of one million one hundred fifty-three thousand one hundred twenty dollars (\$1,153,120) for the 1997-98 fiscal year and the sum of one million four hundred sixty-three thousand five hundred thirty-five dollars (\$1,463,535) for the 1998-99 fiscal year shall be placed in a reserve. Funds in this reserve shall be expended to provide 45 assistants for administrative and victim and witness services only if the Crime Victims' Rights Act, House Bill 665 or Senate Bill 763, is enacted during the 1997 Regular Session. The Office of State Budget and Management may adjust these amounts appropriately if changes in the effective date of the Crime Victims' Rights Act increase or decrease the cost of the 45 assistants for administrative and victim and witness services.

(c) G.S. 7A-347 reads as rewritten:

"§ 7A-347. ~~Victim and witness assistants.~~ Assistants for administrative and victim and witness services.

Victim and witness assistant Assistant for administrative and victim and witness services positions are established under the District Attorneys Offices, district attorneys' offices. Each prosecutorial district is allocated at least one ~~victim and witness assistant~~ for administrative and victim and witness services to be employed by the district attorney. The Administrative Office of the Courts shall allocate additional ~~victim and witness assistants~~ to prosecutorial districts on the basis of need and within available appropriations. Each district attorney may also use any volunteer or other personnel to assist the ~~victim and witness assistant~~. The ~~victim and witness assistant~~ is responsible for coordinating efforts of the law-enforcement and judicial systems to assure that each victim and witness is provided fair treatment under Article 45 of Chapter 15A, Fair Treatment for Victims and Witnesses and shall be used for no other purpose, except as may be approved pursuant to G.S. 7A-348, also provide administrative and legal support to the district attorney's office."

(d) G.S. 7A-348 reads as rewritten:

"§ 7A-348. Training and supervision of ~~victim and witness assistants.~~ assistants for administrative and victim and witness services.

Pursuant to the provisions of G.S. 7A-413, the Conference of District Attorneys shall:

(1) Assist in establishing uniform statewide training for ~~the victim and witness assistants~~; assistants for administrative and victim and witness services;

(2) Assist in the implementation and supervision of this program; and

(3) With the Director of the Administrative Office of the Courts, report annually to the Joint Legislative Commission on Governmental Operations on the implementation and effectiveness of this act, beginning on or before February 1, 1987."

(c) G.S. 15A-826 reads as rewritten:

"§ 15A-826. ~~Victim and witness assistants.~~ Assistants for administrative and victim and witness services.

~~Victim and witness assistants~~ In addition to providing administrative and legal support to the district attorney's office, assistants for administrative and victim and witness services are responsible for coordinating efforts within the law-enforcement and judicial systems to assure that each victim and witness is treated in accordance with this Article."

(f) The Administrative Office of the Courts and the Conference of District Attorneys shall provide for persons serving as victim and witness assistants on June 30, 1997, to be trained as assistants for administrative and victim and witness services by July 1, 1998. The Administrative Office of the Courts and the Conference of District Attorneys shall provide for persons serving as legal assistants on June 30, 1997, to be trained as assistants for administrative and victim and witness services by July 1, 1998. Prior to that time, when necessary to better manage workloads, the district attorney may temporarily assign a victim and witness assistant to perform duties normally performed by a legal assistant and may temporarily assign a legal assistant to perform duties normally performed by a victim and witness assistant.

Requested by: Senators Gulley, Ballance, Rand, Representatives Justus, Kiser, Thompson, Hill

COMPUTER TRAINING

Section 18.8. Prior to the allocation of laptop computers for superior court and district court judges, each judge requesting a laptop computer shall complete a training course provided by the Administrative Office of the Courts in the use of a laptop computer and the appropriate software.

Requested by: Senator Gulley, Representatives Justus, Kiser, Thompson

CRIMINAL CASE MANAGEMENT FUNDS

Section 18.9. (a) The criminal case docket management programs funded in this act shall be distributed in a manner that ensures representation in all areas of the State.

(b) The Administrative Office of the Courts shall report by April 1, 1998, to the Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety on the criminal case management programs established in 10 judicial districts. The report shall assess the success of these 10 programs in reducing the backlog of court cases and resolving new court

cases more quickly and shall include recommendations for the location of additional criminal case management programs in the 1998-99 fiscal year.

Requested by: Senators Gulley, Ballance, Rand, Representatives Justus, Kiser, Thompson, Hill

AOC TECHNOLOGY TASK FORCE

Section 18.10. The Administrative Office of the Courts shall establish a task force consisting of representatives of clerks of superior court, district attorneys, superior and district court judges, and magistrates to formulate a plan for the most efficient and effective use of funds appropriated to the Reserve for Technology. The plan shall address those items requested in the Administrative Office of the Courts' expansion budget, including:

- (1) Automated forms in courtrooms, clerks' offices, and district attorneys' offices;
- (2) District attorney and public defender case management systems;
- (3) New personal computers for district attorneys, public defenders, and clerks of court;
- (4) Technology support personnel; and
- (5) Magistrate criminal information system.

If the task force determines that the funding amounts for these projects should be adjusted or that other projects not enumerated above should receive funding from the Reserve for Technology, it shall make those recommendations to the Administrative Office of the Courts.

Prior to the expenditure of funds appropriated to the Reserve for Technology, the Administrative Office of the Courts shall report the findings of the task force by November 1, 1997, to the Joint Legislative Commission on Governmental Operations, the Chairs of the Senate and House Appropriations Committees, and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety.

Requested by: Senators Gulley, Ballance, Rand, Representatives Justus, Kiser, Thompson, Hill

ADDITIONAL ASSISTANT DISTRICT ATTORNEYS/REESTABLISH ASSISTANT DISTRICT ATTORNEY POSITIONS IN DISTRICTS 19B AND 20

Section 18.11. (a) G.S. 7A-60(a1) reads as rewritten:

"(a1) The counties of the State are organized into prosecutorial districts, and each district has the counties and the number of full-time assistant district attorneys set forth in the following table:

Prosecutorial District	Counties	No. of Full-Time Asst. District Attorneys
1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans	9
2	Beaufort, Hyde, Martin, Tyrrell, Washington	5
3A	Pitt	8 <u>9</u>

3B	Carteret, Craven, Pamlico	8 10
4	Duplin, Jones, Onslow, Sampson	12 <u>14</u>
5	New Hanover, Pender	11 13
6A	Halifax	4
6B	Bertie, Hertford, Northampton	4
7	Edgecombe, Nash, Wilson	12 15
8	Greene, Lenoir, Wayne	10 <u>11</u>
9	Franklin, Granville, Vance, Warren	9 <u>10</u>
9A	Person, Caswell	3 4
10	Wake	23 <u>28</u>
11	Harnett, Johnston, Lee	11 <u>14</u>
12	Cumberland	14 <u>17</u>
13	Bladen, Brunswick, Columbus	8 9
14	Durham	10 <u>12</u>
15A	Alamance	7
15B	Orange, Chatham	6 7
16A	Scotland, Hoke	4 <u>5</u>
16B	Robeson	8 <u>9</u>
17A	Rockingham	5
17B	Stokes, Surry	5
18	Guilford	22 <u>26</u>
19A	Cabarrus	5
19B	Montgomery, Moore, Randolph	9 <u>11</u>
19C	Rowan	5
20	Anson, Richmond, Stanly, Union	12 <u>14</u>
21	Forsyth	13 15
22	Alexander, Davidson, Davie, Iredell	13 <u>16</u>
23	Alleghany, Ashe, Wilkes, Yadkin	5
24	Avery, Madison, Mitchell, Watauga, Yancey	4
25	Burke, Caldwell, Catawba	12 14
26	Mecklenburg	29 <u>32</u>
27A	Gaston	10 <u>12</u>
27B	Cleveland, Lincoln	6 <u>8</u>
28	Buncombe	9 10
29	Henderson, McDowell, Polk, Rutherford, Transylvania	10 <u>11</u>
30	Cherokee, Clay, Graham, Haywood, Jackson, Macon, Swain."	7

(b) Subsections (c) and (d) of Section 5 of Chapter 589 of the 1995 Session Laws are repealed.

(c) Subsection (a) of this section becomes effective December 1, 1997.

Requested by: Senators Gulley, Ballance, Rand, Representatives Justus, Kiser, Thompson, Hill

ADDITIONAL DISTRICT COURT JUDGES

Section 18.12. (a) G.S. 7A-133(a) reads as rewritten:

"(a) Each district court district shall have the numbers of judges as set forth in the following table:

District Judges		County
1	4	Camden Chowan Currituck Dare Gates Pasquotank Perquimans
2	3	Martin Beaufort Tyrrell Hyde Washington
3A	4	Pitt
3B	4 <u>5</u>	Craven Pamlico Carteret
4	6	Sampson Duplin Jones Onslow
5	6	New Hanover Pender
6A	2	Halifax
6B	3	Northampton Bertie Hertford
7	6	Nash Edgecombe Wilson
8	6	Wayne Greene Lenoir
9	4	Granville (part of Vance see subsection (b))
9A	2	Franklin Person

9B	1	Caswell Warren (part of Vance see subsection (b))
10	12	Wake
11	6	Harnett Johnston Lee
12	8	Cumberland
13	4 <u>5</u>	Bladen Brunswick Columbus
14	5	Durham
15A	3	Alamance
15B	3 <u>4</u>	Orange Chatham
16A	3	Scotland Hoke
16B	5	Robeson
17A	2	Rockingham
17B	3	Stokes Surry
18	11	Guilford
19A	3	Cabarrus
19B	5	Montgomery Moore Randolph
19C	3	Rowan
20	6 <u>7</u>	Stanly Union Anson Richmond
21	7	Forsyth
22	7 <u>8</u>	Alexander Davidson Davie Iredell
23	4	Alleghany Ashe Wilkes Yadkin
24	3 <u>4</u>	Avery Madison Mitchell Watauga Yancey
25	7	Burke Caldwell Catawba

26	14	Mecklenburg
27A	5	Gaston
27B	4	Cleveland
		Lincoln
28	5	Buncombe
29	5	Henderson
		McDowell
		Polk
		Rutherford
		Transylvania
30	4	Cherokee
		Clay
		Graham
		Haywood
		Jackson
		Macon
		Swain."

(b) The Governor shall appoint additional district court judges for District Court Districts 3B, 13, 15B, 20, 22, and 24 as authorized by subsection (a) of this section. Those judges' successors shall be elected in the 2000 election for four-year terms commencing on the first Monday in December 2000.

(c) Subsection (a) of this section becomes effective December 1, 1997, as to any district where no county is subject to Section 5 of the Voting Rights Act of 1965. As to any district where any county is subject to Section 5 of the Voting Rights Act of 1965, subsection (a) of this section becomes effective December 1, 1997, or 15 days after the date upon which that subsection is approved under Section 5 of the Voting Rights Act.

Requested by: Senators Gulley, Ballance, Rand, Representatives Justus, Kiser, Thompson, Hill

AUTHORIZE ADDITIONAL MAGISTRATES

Section 18.13. G.S. 7A-133(c) reads as rewritten:

"(c) Each county shall have the numbers of magistrates and additional seats of district court, as set forth in the following table:

County	Magistrates Min.-Max.	Additional Seats of Court
Camden	1	2
Chowan	2	3
Currituck	1	3
Dare	3	8
Gates	2	3
Pasquotank	3	5
Perquimans	2	3
Martin	5	8
Beaufort	4	8

Tyrrell	1	3	
Hyde	2	4	
Washington	3	4	
Pitt	10	12	Farmville
			Ayden
Craven	7	10	Havelock
Pamlico	2	3	
Carteret	5	8	
Sampson	6	8	
Duplin	9	11	
Jones	2	3	
Onslow	8	14	
New Hanover	6	11	
Pender	4	6	
Halifax	9	14	Roanoke
			Rapids,
			Scotland Neck
Northampton	5	7	
Bertie	4	6	
Hertford	5	6	
Nash	7	10	Rocky Mount
Edgecombe	4	6 7	Rocky Mount
Wilson	4	6 7	
Wayne	5	11 12	Mount Olive
Greene	2	4	
Lenoir	4	10	La Grange
Granville	3	7	
Vance	3	6	
Warren	3	4	
Franklin	3	6 7	
Person	3	4	
Caswell	2	5	
Wake	12	20	Apex,
			Wendell,
			Fuquay-
			Varina,
			Wake Forest
Harnett	7	11	Dunn
Johnston	10	12	Benson,
			Clayton,
			Selma
Lee	4	6	
Cumberland	10	17 18	
Bladen	4	6	
Brunswick	4	7	
Columbus	6	8 9	Tabor City
Durham	8	12 13	
Alamance	7	10	Burlington
Orange	4	11	Chapel Hill

Chatham	3	8	Siler City
Scotland	3	5	
Hoke	4	5	
Robeson	8	16	Fairmont, Maxton, Pembroke, Red Springs, Rowland, St. Pauls
Rockingham	4	9	Reidsville, Eden, Madison
Stokes	2	5	
Surry	5	9	Mt. Airy
Guilford	20	26	High Point
Cabarrus	5	9	Kannapolis
Montgomery	2	4	
Randolph	5	10	Liberty
Rowan	5	10	
Stanly	5	6	
Union	4	6	
Anson	4	5	
Richmond	5	6	Hamlet
Moore	5	8	Southern Pines
Forsyth	3	15	Kernersville
Alexander	2	3	
Davidson	7	10	Thomasville
Davie	2	3	
Iredell	4	9	Mooresville
Alleghany	1	2	
Ashe	3	4	
Wilkes	4	6	
Yadkin	3	5	
Avery	3	4	
Madison	4	5	
Mitchell	3	4	
Watauga	4	6	
Yancey	2	4	
Burke	4	7	
Caldwell	4	7	
Catawba	6	10	Hickory
Mecklenburg	15	26	
Gaston	11	20 <u>21</u>	
Cleveland	5	8	
Lincoln	4	7	
Buncombe	6	15	
Henderson	4	7	
McDowell	3	5	

Polk	3	4	
Rutherford	6	8	
Transylvania	2	4	
Cherokee	3	4	
Clay	1	2	
Graham	2	3	
Haywood	5	7	Canton
Jackson	3	4	
Macon	3	4	
Swain	2	3."	

Requested by: Senators Gulley, Ballance, Rand, Representatives Justus, Kiser, Thompson, Hill

ASSISTANT PUBLIC DEFENDERS

Section 18.14. From funds appropriated to the Indigent Persons' Attorney Fee Fund for the 1997-99 biennium, the Administrative Office of the Courts may use up to three hundred fourteen thousand two hundred forty dollars (\$314,240) in the 1997-98 fiscal year, and up to five hundred twenty-four thousand five hundred twenty-eight dollars (\$524,528) in the 1998-99 fiscal year for salaries, benefits, and related expenses to establish up to eight new assistant public defenders.

Requested by: Senators Perdue, Gulley, Ballance, Rand, Representatives Justus, Kiser, Thompson, Hill

JUVENILE RECIDIVISM RATES

Section 18.15. (a) Article 54 of Chapter 7A of the General Statutes is amended by adding a new section to read:

"§ 7A-675.3. *Juvenile recidivism rates.*

(a) On an annual basis, the Administrative Office of the Courts shall compute the recidivism rate of juveniles who are adjudicated delinquent for offenses that would be Class A, B1, B2, C, D, or E felonies if committed by adults and who subsequently are adjudicated delinquent or convicted and shall report the statistics to the Joint Legislative Commission on Governmental Operations by December 31 each year.

(b) The Chief Court Counselor of each judicial district shall forward to the Administrative Office of the Courts relevant information, as determined by the Administrative Office of the Courts, regarding every juvenile who is adjudicated delinquent for an offense that would be a Class A, B1, B2, C, D, or E felony if committed by an adult for the purpose of computing the statistics required by this section."

(b) The Administrative Office of the Courts shall use funds available to the Office to implement this section.

Requested by: Representatives Justus, Kiser, Thompson, Hill, Senators Gulley, Ballance, Rand

ADDITIONAL INVESTIGATORIAL ASSISTANTS

Section 18.16. G.S. 7A-69 reads as rewritten:

"§ 7A-69. *Investigatorial assistants.*

The district attorney in ~~the first, third-B, fourth, seventh, eighth, tenth, eleventh, twelfth, fourteenth, fifteenth-A, sixteenth, eighteenth, twentieth, twenty-first, twenty-fifth, twenty-sixth, twenty-seventh, twenty-eighth, twenty-ninth and thirtieth~~ prosecutorial districts 1, 3B, 4, 6B, 7, 8, 10, 11, 12, 14, 15A, 15B, 18, 20, 21, 24, 25, 26, 27A, 27B, 28, 29, and 30 is entitled to one investigatorial assistant to be appointed by the district attorney and to serve at his pleasure.

It shall be the duty of the investigatorial assistant to investigate cases preparatory to trial and to perform such other duties as may be assigned by the district attorney. The investigatorial assistant is entitled to reimbursement for his subsistence and travel expenses to the same extent as State employees generally."

Requested by: Senators Plyler, Perdue, Odom, Representatives Justus, Kiser, Thompson

IRMC REVIEW OF INFORMATION TECHNOLOGY PLANS OF THE ADMINISTRATIVE OFFICE OF THE COURTS

Section 18.17. (a) G.S. 143B-472.41(b), as recodified by Section 2 of S.L. 1997-148, reads as rewritten:

"(b) Powers and Duties. -- The Commission has the following powers and duties:

- (1) To develop, approve, and publish a statewide information technology strategy covering the current and following biennium that shall be updated annually and shall be submitted to the General Assembly on the first day of each regular session.
- (2) To develop, approve, and sponsor statewide technology initiatives and to report on those initiatives in the annual update of the statewide information technology strategy.
- (3) To review and approve biennially the information technology plans of the executive agencies, including their agencies and to review and comment biennially on the information technology plans of the Administrative Office of the Courts. This review shall include plans for the procurement and use of personal computers and workstations.
- (4) To recommend to the Governor and the Office of State Budget and Management the relative priorities across executive agency information technology plans.
- (5) To establish a quality assurance policy for all agency information technology projects, information systems training programs, and information systems documentation.
- (6) To establish and enforce a quality review and expenditure review procedure for major agency information technology projects.
- (7) To review and approve expenditures from appropriations made to the Office of State Budget and Management for the purpose of creating a Computer Reserve Fund.
- (8) To develop and promote a policy and procedures for the fair and competitive procurement of information technology consistent with the rules of the Department of Administration and consistent with published industry standards for open systems that provide

agencies with a vendor-neutral operating environment where different information technology hardware, software, and networks operate together easily and reliably."

(b) The Information Resources Management Commission shall review the information technology plans of the Administrative Office of the Courts and report its findings to the Joint Legislative Commission on Governmental Operations by November 1, 1997.

Requested by: Representatives Justus, Kiser, Thompson, Hill, Senators Gulley, Ballance, Rand

STUDY COMMISSION ON THE ALLOCATION OF JUDICIAL RESOURCES

Section 18.18. (a) The Study Commission on the Allocation of Judicial Resources is created. The Commission shall consist of 15 voting members as follows:

- (1) Four members of the House of Representatives to be appointed by the Speaker of the House of Representatives;
- (2) Four members of the Senate to be appointed by the President Pro Tempore of the Senate;
- (3) Three judges of the General Court of Justice, one superior court judge and one district court judge to be appointed by the Speaker of the House of Representatives, and one superior or district court judge to be appointed by the President Pro Tempore of the Senate;
- (4) Three court officials, one district attorney and one clerk of court to be appointed by the President Pro Tempore of the Senate, and one district attorney, clerk of court, or magistrate to be appointed by the Speaker of the House of Representatives;
- (5) The Director of the Administrative Office of the Courts, or the Director's designee.

The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall each designate a cochair from the General Assembly membership serving on the Commission. The Commission shall meet upon the call of the cochairs. A majority of the Commission shall constitute a quorum for the transaction of business.

(b) The Commission shall study the allocation of judicial resources, including superior court judges, district court judges, assistant district attorneys, deputy clerks of court, assistant clerks of court, magistrates, and support staff. The study shall include a review of the existing workload and staffing formulas for judicial personnel.

(c) The Commission may contract for consultant services as provided by G.S. 120-32.02. Upon approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional and clerical staff to assist in the work of the Commission. Clerical staff shall be furnished to the Commission through the offices of the House of Representatives and Senate Supervisors of Clerks. The Commission may meet in the Legislative Building or the Legislative Office Building upon the approval of the Legislative Services Commission. The Commission, while in the discharge of official duties, may exercise all the powers provided under the provisions of G.S. 120-19 through G.S. 120-19.4, including the power to request all

officers, agents, agencies, and departments of the State to provide any information, data, or documents within their possession, ascertainable from their records, or otherwise available to them, and the power to subpoena witnesses.

Members of the Commission shall receive per diem, subsistence, and travel allowances as follows:

- (1) Commission members who are members of the General Assembly at the rate established in G.S. 120-3.1;
- (2) Commission members who are officials or employees of the State or of local government agencies at the rate established in G.S. 138-6.

(d) The Commission shall report the results of its study and its recommendations to the 1999 General Assembly and may make an interim report to the 1998 Regular Session of the 1997 General Assembly. The Commission shall terminate upon filing its final report.

(e) There is allocated from the funds appropriated to the Legislative Services Commission's studies reserve to the Study Commission on the Allocation of Judicial Resources Study Commission the sum of fifteen thousand dollars (\$15,000) for the 1997-98 fiscal year and the sum of fifteen thousand dollars (\$15,000) for the 1998-99 fiscal year to conduct the study directed by this section.

Requested by: Representatives Justus, Kiser, Thompson, Hill, Senators Gulley, Ballance, Rand

GUARDIAN AD LITEM ATTORNEY BILLINGS

Section 18.19. Attorneys providing legal services for the Guardian Ad Litem program shall bill the Judicial Department within 60 days after the end of each quarter of the fiscal year in order to be reimbursed for those services.

Requested by: Representatives Justus, Kiser, Thompson

PROJECT CHALLENGE REPORT

Section 18.20. (a) Of the funds appropriated in this act to the Administrative Office of the Courts for the 1997-98 fiscal year, the sum of one hundred thousand dollars (\$100,000) shall be used to support the operation of Project Challenge North Carolina, Inc., a nonprofit corporation that provides alternative dispositions and services to juveniles who have been adjudicated delinquent or undisciplined in District Court District 24, and for expansion of the program. The funds shall be used to:

- (1) Provide community resources and dispositional alternatives for juveniles in the form of community services, including services to the elderly and economically disadvantaged;
- (2) Promote the involvement of juveniles in community programs that instill in juveniles pride in their communities and develop self-respect and the skills needed for them to be productive, responsible members of their communities;
- (3) Coordinate with the local schools and State and local law enforcement to educate juveniles regarding the justice system and

to promote respect for authority and an appreciation of societal laws and mores; and

- (4) Collaborate with community agencies and organizations to provide guidance to and positive role models for juveniles.

(b) Project Challenge North Carolina, Inc. shall report by March 1, 1998, to the Joint Legislative Commission on Governmental Operations, the Chairs of the House and Senate Appropriations Committees, and the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety on the expenditure of State appropriations and on the operations and the effectiveness of the program, including information on the number of juveniles served. Thereafter, Project Challenge North Carolina, Inc. shall report quarterly to the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety on the operations and effectiveness of the program.

Requested by: Representatives Morris, Hurley, Justus, Kiser, Thompson, Hill, Senators Gulley, Ballance, Rand

CUMBERLAND JUVENILE ASSESSMENT CENTER

Section 18.21. (a) Of the funds appropriated in this act to the Administrative Office of the Courts for the 1997-98 fiscal year, the sum of one hundred fifty thousand dollars (\$150,000) shall be used to fund the Juvenile Assessment Project authorized by this section. These funds shall be matched by local funds on the basis of one dollar (\$1.00) of local funds for every three dollars (\$3.00) of State funds.

(b) The Administrative Office of the Courts, in collaboration with the Chief Court Counselor of District Court District 12, the Cumberland County Department of Social Services, and the appropriate local school administrative units, shall develop and implement a Juvenile Assessment Center Project in District Court District 12 to operate from the effective date of this act to June 30, 1998. The purpose of the Project is to facilitate efficient prevention and intervention service delivery to juveniles who are (i) alleged to be delinquent or undisciplined and have been taken into custody or (ii) at risk of becoming delinquent or undisciplined because they have behavioral problems and have committed delinquent acts even though they have not been taken into custody. The Project shall assist these juveniles by providing a centralized point of intake and assessment for the juveniles, by addressing the educational, emotional, and physical needs of the juveniles, and by providing juveniles with an atmosphere for learning personal responsibility, self-respect, and respect for others. The Administrative Office of the Courts shall consider the recommendations of the Juvenile Assessment Advisory Board in developing and implementing the Project.

(c) The Project shall be modeled after the Juvenile Assessment Center in Hillsborough County, Florida, and shall:

- (1) Identify those juveniles who are alleged to be delinquent or undisciplined or are at risk of becoming delinquent or undisciplined;
- (2) Evaluate the educational, emotional, and physical needs of the juveniles identified and determine whether the juveniles have

problems related to substance abuse, depression, or other emotional conditions;

- (3) Develop in-depth and comprehensive assessment plans for the juveniles identified that recommend appropriate treatment, counseling, and disposition of the juveniles; and
- (4) Provide services to juveniles identified and their families through collaboration with public and private resources, including local law enforcement, parents' organizations, the Fayetteville Chamber of Commerce, and county and community programs and organizations that provide substance abuse treatment and child and family counseling.

(d) There is established the Juvenile Assessment Advisory Board to make recommendations to the Administrative Office of the Courts regarding the development and operations of the Project. The Board shall consist of 13 members, including:

- (1) The director of the Department of Social Services of Cumberland County, or the director's designee.
- (2) A representative from the local mental health area authority of Cumberland County.
- (3) A member of the Cumberland County Board of Education.
- (4) The sheriff of Cumberland County, or the sheriff's designee.
- (5) The chief of police of the Fayetteville Police Department, or the designee of the chief of police.
- (6) A judge of District Court District 12.
- (7) A juvenile court counselor from District Court District 12.
- (8) The director of the Guardian Ad Litem program in Cumberland County, or the director's designee.
- (9) The director of the Health Department of Cumberland County, or the director's designee.
- (10) Two public members appointed by the Fayetteville City Council.
- (11) Two public members appointed by the Board of County Commissioners of Cumberland County.

The members of the Board shall, within 30 days after the initial appointment is made, meet and elect one member as chair. The Board shall meet at least once a month at the call of the chair, and a quorum of the Board shall consist of a majority of its members. The Board of County Commissioners of Cumberland County shall provide necessary clerical and professional assistance to the Board.

Initial appointments shall be made by October 1, 1997, and all terms shall expire June 30, 1998.

(e) The Administrative Office of the Courts, in consultation with the Department of Human Resources, shall evaluate the Project and report to the Chairs of the House and Senate Appropriations Committees, the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety and Human Resources, and the Fiscal Research Division of the General Assembly by May 1, 1998, on the progress of the development and implementation of the Project. In the report, the Administrative Office of the Courts, in consultation with the Department of Human Resources, shall evaluate the effectiveness of the Project, including the number of

juveniles served or expected to be served, and shall recommend whether the Project should be continued. If the report recommends that the Project be continued, it shall also provide a cost analysis outlining the long-term staffing and operating needs of the Project.

Requested by: Representatives Sexton, Eddins, Justus, Kiser, Thompson, Hill, Senators Gulley, Ballance, Rand

BAD CHECK PILOT PROGRAM FUNDS/REPORT

Section 18.22. (a) G.S. 7A-308 is amended by adding a new section to read:

"(c) A person who participates in a program for the collection of worthless checks under G.S. 14-107.2 must pay a fee of fifty dollars (\$50.00). The fee collected under this subsection must be remitted to the State by the clerk of court in the county in which the program is established and credited to the Collection of Worthless Checks Fund. The Collection of Worthless Checks Fund is created as a special revenue fund. Revenue in the Fund does not revert at the end of the fiscal year, and interest and other investment income earned by the Fund accrues to the Fund. The money in the Fund is subject to appropriation by the General Assembly and may be used solely for the expenses of the programs established under G.S. 14-107.2 for the collection of worthless checks."

(b) Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-107.2. Program for the collection of worthless check cases."

A district attorney may establish a program for the collection of worthless check cases that would, if prosecuted under G.S. 14-107, be punishable as a Class 2 misdemeanor. The purpose of the program is to collect worthless checks in a more timely manner, to alleviate the need to prosecute each worthless check case, and to provide an opportunity for the check passer to avoid criminal prosecution. In creating the program, the district attorney must establish criteria for the types of worthless check cases that will be eligible for collection under the program. If the check passer participates in the program by paying the fee under G.S. 7A-308(c) and providing restitution to the check taker for (i) the amount of the check or draft, (ii) any service charges imposed on the check taker by a bank or depository for processing the dishonored check, and (iii) any processing fees imposed by the check taker pursuant to G.S. 25-3-512, then the district attorney will not prosecute the worthless check case under G.S. 14-107. The Administrative Office of the Courts must establish procedures for remitting the fee and providing restitution to the check taker. For the purposes of this section, the terms 'check passer' and 'check taker' have the same meanings as defined in G.S. 14-107.1."

(c) Of the funds appropriated to the Judicial Department for the 1997-98 fiscal year, the sum of one hundred fifty thousand dollars (\$150,000) shall be used to establish bad check collection pilot programs in Columbus, Durham, and Rockingham Counties.

The Administrative Office of the Courts shall report by May 1, 1998, to the Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees on Justice

and Public Safety on the implementation of the programs, including their effectiveness in assisting the recipients of worthless checks in obtaining restitution and the amount of time saved in prosecuting worthless check cases.

(d) This act applies only to Columbus, Durham, and Rockingham Counties.

(e) This act becomes effective October 1, 1997, and expires June 30, 1998.

Requested by: Representatives Justus, Kiser, Thompson
DISTRICT COURT CIVIL CASE MANAGEMENT

Section 18.23. The Administrative Office of the Courts shall report by May 1, 1998, to the Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety on the civil case management pilot programs established in District Court Districts 13, 18, and 30. The report shall assess the success of these programs in reducing the backlog of civil court cases and in resolving new cases more quickly.

Requested by: Representatives Redwine, Hackney, Justus, Kiser, Thompson, Hill, Senators Gulley, Ballance, Rand

ESTABLISH TEEN COURTS IN ORANGE, COLUMBUS, BRUNSWICK, FORSYTH, AND CABARRUS COUNTIES AND TO PROVIDE ADDITIONAL FUNDING FOR THE TEEN COURTS IN WAKE AND DURHAM COUNTIES

Section 18.24. (a) Of the funds appropriated in this act to the Judicial Department, the Administrative Office of the Courts shall use:

- (1) The sum of fifteen thousand dollars (\$15,000) for the 1997-98 fiscal year and the sum of fifteen thousand dollars (\$15,000) for the 1998-99 fiscal year to establish a "teen court" program in Orange County.
- (2) The sum of twenty thousand dollars (\$20,000) for the 1997-98 fiscal year and the sum of twenty thousand dollars (\$20,000) for the 1998-99 fiscal year to establish a "teen court" program in Columbus County.
- (3) The sum of twenty thousand dollars (\$20,000) for the 1997-98 fiscal year and the sum of twenty thousand dollars (\$20,000) for the 1998-99 fiscal year to establish a "teen court" program in Brunswick County.
- (4) The sum of fourteen thousand three hundred thirty dollars (\$14,330) for the 1997-98 fiscal year and the sum of fourteen thousand three hundred thirty dollars (\$14,330) for the 1998-99 fiscal year to establish a "teen court" program in Forsyth County.
- (5) The sum of fourteen thousand three hundred thirty dollars (\$14,330) for the 1997-98 fiscal year and the sum of fourteen thousand three hundred thirty dollars (\$14,330) for the 1998-99 fiscal year to establish a "teen court" program in Cabarrus County.

The Administrative Office of the Courts shall establish the programs pursuant to the guidelines and objectives set forth in Section 40 of Chapter 24 of the Session Laws of the 1994 Extra Session.

(b) Of the funds appropriated in this act to the Judicial Department for the 1997-98 fiscal year, the sum of fifteen thousand dollars (\$15,000) shall be used to provide additional funding for the "teen court" program currently operating in Durham County and the sum of fifteen thousand dollars (\$15,000) shall be used to provide additional funding for the "teen court" program currently operating in Wake County.

(c) Each of the programs funded pursuant to this section shall report to the Administrative Office of the Courts on the expenditures and operations of the program by March 1, 1998, and thereafter on a quarterly basis. The Administrative Office of the Courts shall evaluate the effectiveness of the programs and report its findings and recommendations to the Joint Legislative Commission on Governmental Operations and to the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety by April 15, 1998.

PART XIX. DEPARTMENT OF CORRECTION

Requested by: Senator Gulley, Representatives Justus, Kiser, Thompson
**REIMBURSE COUNTIES FOR HOUSING AND EXTRAORDINARY
 MEDICAL COSTS FOR INMATES, PAROLEES, AND POST-RELEASE
 SUPERVISEES AWAITING TRANSFER TO STATE PRISON SYSTEM**

Section 19. (a) G.S. 148-29 reads as rewritten:

"§ 148-29. *Transportation of convicts to prison; reimbursement to counties; sheriff's expense affidavit.*

(a) The sheriff having in charge any prisoner to be taken to the State prison system shall send the prisoner to the custody of the Department of Correction within five days after sentencing and the disposal of all pending charges against the prisoner, if no appeal has been taken. Beginning on the sixth day after sentencing and disposal of all pending charges against the prisoner and continuing through the day the prisoner is received by the Division of Prisons, the Department of Correction shall pay the ~~county~~ county:

(1) A standard sum set by the General Assembly in its appropriations acts for the cost of providing food, clothing, personal items, supervision, and necessary ordinary medical services to the prisoner awaiting transfer to the State prison system.

(2) Extraordinary medical costs, as defined in G.S. 148-32.1(a), incurred by prisoners awaiting transfer to the State prison system.

(b) The sheriff having in charge any parolee or post-release supervisee to be taken to the State prison system shall send the prisoner to the custody of the Department of Correction within five days after preliminary hearing held under G.S. 15A-1368.6(b) or G.S. 15A-1376(b). Beginning on the sixth day after the hearing and continuing through the day the prisoner is received by the Division of Prisons, the Department of Correction shall pay the county:

- (1) A standard sum set by the General Assembly in its appropriations acts for the cost of providing food, clothing, personal items, supervision, and necessary ordinary medical services to the parolee or post-release supervisee awaiting transfer to the State prison system; and
- (2) Extraordinary medical costs, as defined in G.S. 148-32.1(a), incurred by parolees or post-release supervisees awaiting transfer to the State prison system.

(c) The sheriff shall file with the board of commissioners of his county a copy of his affidavit as to necessary guard, together with a copy of his itemized account of expenses, both certified to by him as true copies of those on file in his office."

(b) The Department of Correction may use funds appropriated to the Department for the 1997-99 biennium to pay the sum of forty dollars (\$40.00) per day as reimbursement to counties for the cost of housing convicted inmates and parolees and post-release supervisees awaiting transfer to the State prison system, as provided in G.S. 148-29. The Department shall report quarterly to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Corrections Oversight Committee, the Chairs of the Senate and House Appropriations Committees, and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety on the expenditure of funds to reimburse counties for prisoners awaiting transfer and on its progress in reducing the jail backlog.

Prior to the expenditure of more than the sum of six million five hundred thousand dollars (\$6,500,000) for the 1997-98 fiscal year or more than the sum of four million dollars (\$4,000,000) for the 1998-99 fiscal year to reimburse counties for prisoners awaiting transfer, the Department of Correction and the Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations on the necessity of that expenditure.

Requested by: Senators Gulley, Ballance, Rand, Representatives Justus, Kiser, Thompson, Hill

INMATE HOUSING FUNDS

Section 19.1. If the Department of Correction determines that funds needed to contract for prison beds to house inmates in out-of-state prisons or in local jails will exceed appropriations for those purposes in the 1997-98 continuation budget, it may contract for those purposes using funds from the 1997-98 continuation budget reserves for operating prisons that become available because of delays in the construction of prison units. To the extent that funds from the reserves for operating prison units are not available, the Department of Correction may use funds available to the Department for the 1997-98 fiscal year to contract for prison beds to house inmates in out-of-state prisons or in local jails. The Department shall report quarterly to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Corrections Oversight Committee, the Chairs of the Senate and House Appropriations Committees, and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety on these contracts. The report shall include the amount expended monthly for each

contract, the source of funding used to pay for the contracts, the status of each contract, and the projected dates for returning the inmates housed out-of-state or in local jails to the State prison system.

Prior to the expenditure of more than the sum of one million dollars (\$1,000,000) in additional funds authorized by this section to contract for out-of-state and local jail beds, the Department of Correction and the Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations on the necessity of that expenditure.

Requested by: Senator Gulley

EXEMPTION FROM LICENSURE AND CERTIFICATE OF NEED

Section 19.2. (a) Inpatient chemical dependency or substance abuse facilities that provide services exclusively to inmates of the Department of Correction shall be exempt from licensure by the Department of Human Resources under Chapter 122C of the General Statutes. If an inpatient chemical dependency or substance abuse facility provides services both to inmates of the Department of Correction and to members of the general public, the portion of the facility that serves inmates shall be exempt from licensure.

(b) Any person who contracts to provide inpatient chemical dependency or substance abuse services to inmates of the Department of Correction may construct and operate a new chemical dependency or substance abuse facility for that purpose without first obtaining a certificate of need from the Department of Human Resources pursuant to Article 9 of Chapter 131E of the General Statutes. However, a new facility or addition developed for that purpose without a certificate of need shall not be licensed pursuant to Chapter 122C of the General Statutes and shall not admit anyone other than inmates unless the owner or operator first obtains a certificate of need.

(c) This section applies to existing facilities, as well as future facilities contracting with the Department of Correction.

Requested by: Senator Gulley, Representatives Justus, Kiser, Thompson

LIMIT USE OF OPERATIONAL FUNDS

Section 19.3. Funds appropriated in this act to the Department of Correction for operational costs for additional facilities shall be used for personnel and operating expenses set forth in the budget approved by the General Assembly in this act. These funds shall not be expended for any other purpose, except as provided for in this act, and shall not be expended for additional prison personnel positions until the new facilities are within 90 days of projected completion, except for certain management, security, and support positions necessary to prepare the facility for opening, as authorized in the budget approved by the General Assembly.

Requested by: Representatives Justus, Kiser, Thompson, Hill, Senators Gulley, Ballance, Rand

USE OF FACILITIES CLOSED UNDER GPAC/PLAN FOR EFFICIENT OPERATION OF DIVISION OF PRISONS

Section 19.4. (a) In conjunction with the closing of small expensive prison units recommended for consolidation by the Government Performance Audit Committee, the Department of Correction shall consult with the county or municipality in which the unit is located or any private for-profit or nonprofit firm about the possibility of converting that unit to other use. Consistent with existing law and its future needs, the Department may provide for the transfer or the lease for 20 years or more of any of these units to counties, municipalities, or private firms wishing to convert them to other use. The Department of Correction may also consider converting some of the units recommended for closing from medium security to minimum security, where that conversion would be cost-effective. A prison unit under lease to a county pursuant to the provisions of this section for use as a jail is exempt for the period of the lease from any of the minimum standards adopted by the Secretary of Human Resources pursuant to G.S. 153A-221 for the housing of adult prisoners that would subject the unit to greater standards than those required of a unit of the State prison system.

Prior to any transfer or lease of these units, the Department of Correction shall report on the terms of the proposed transfer or lease to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Corrections Oversight Committee. The Department of Correction shall also provide quarterly summary reports to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Corrections Oversight Committee on the conversion of these units to other use and on all leases or transfers entered into pursuant to this section.

(b) The Department of Correction shall prepare a long-range plan for the closing, consolidation, or conversion of prison units or diagnostic centers that would contribute to the more efficient operation of the Division of Prisons. The Department shall present this plan to the Joint Legislative Corrections Oversight Committee by April 30, 1998.

Requested by: Representatives Justus, Kiser, Thompson

FEDERAL GRANT REPORTING

Section 19.5. The Department of Correction, the Department of Justice, the Department of Crime Control and Public Safety, and the Judicial Department shall report by December 1 and May 1 of each year to the Joint Legislative Commission on Governmental Operations, the Chairs of the Senate and House Appropriations Committees, and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety on federal grant funds received or preapproved for receipt by those departments. The report shall include information on the amount of grant funds received or preapproved for receipt by each department, the use of the funds, the State match expended to receive the funds, and the period to be covered by each grant. If the department intends to continue the program beyond the end of the grant period, the department shall report on the proposed method for continuing the funding of the program at the end of the grant period. Each department shall also report on any information it may have indicating that the State will be requested to provide future funding for a program presently supported by a local grant.

Requested by: Senator Gulley

HARRIET'S HOUSE FUNDS/FUNDS SHALL NOT REVERT

Section 19.6. (a) Funds appropriated in this act to the Department of Correction to support the programs of Harriet's House may be used for program operating costs, the purchase of equipment, and the rental of real property. Harriet's House shall report by December 1 and May 1 of each year to the Joint Legislative Commission on Governmental Operations on the expenditure of State appropriations and on the effectiveness of the program including information on the number of clients served and the number of clients who successfully complete the Harriet's House program.

(b) The balance of the two hundred thousand dollars (\$200,000) appropriated in Chapter 507 of the 1995 Session Laws to the Department of Correction for the 1996-97 fiscal year to support the programs at Harriet's House shall not revert at the end of the fiscal year but shall remain available to the Department during the 1997-98 fiscal year to be used for program operating costs, the purchase of equipment, and the rental of real property.

(c) This section becomes effective June 30, 1997.

Requested by: Senators Gulley, Odom, Ballance

REPORT ON SUMMIT HOUSE

Section 19.7. (a) Summit House shall report by December 1 and May 1 of each year to the Joint Legislative Commission on Governmental Operations on the expenditure of State appropriations and on the effectiveness of the program, including information on the number of clients served, the number of clients who have their probation revoked, and the number of clients who successfully complete the program while housed at Summit House.

(b) Summit House shall report by December 1, 1998, to the Joint Legislative Commission on Governmental Operations on (i) possible expansion of the programs in Mecklenburg and Guilford Counties; (ii) on possible expansion to other areas of the State; and (iii) the status of the Wake County program. This report shall include the estimated size of the population to be served, estimated costs, and anticipated obstacles to establishment of a residential program.

(c) The balance of the one million one hundred three thousand seven hundred fifty-eight dollars (\$1,103,758), appropriated in Chapter 507 of the 1995 Session Laws and Chapter 18 of the Session Laws of the 1996 Second Extra Session to the Department of Correction for the 1996-97 fiscal year for support and expansion of the programs at Summit House in Greensboro and Mecklenburg and Wake Counties, shall not revert at the end of the fiscal year but shall remain in the Department during the 1997-98 fiscal year for that purpose.

(d) This section becomes effective June 30, 1997.

Requested by: Representatives Justus, Kiser, Thompson, Hill, Senators Gulley, Ballance, Rand

MODIFICATION OF FUNDING FORMULA FOR THE NORTH CAROLINA STATE-COUNTY CRIMINAL JUSTICE PARTNERSHIP ACT

Section 19.8. (a) Notwithstanding the funding formula set forth in G.S. 143B-273.15, grants made through the North Carolina State-County Criminal Justice Partnership Act for the 1997-98 fiscal year shall be distributed to the counties as specified in G.S. 143B-273.15(2) only, and not as discretionary funds. The Department may also use funds from the State-County Criminal Justice Partnership Account in order to maintain the counties' allocations of nine million six hundred thousand dollars (\$9,600,000) as provided in previous fiscal years. Appropriations not claimed or expended by the counties during the 1997-99 biennium shall be distributed as specified in G.S. 143B-273.15(1).

(b) G.S. 143B-273.4(a) reads as rewritten:

"(a) An eligible offender is an adult offender who either is in confinement awaiting trial, or was convicted of a misdemeanor or a felony offense and received a nonincarcerative sentence of an intermediate punishment or is serving a term of parole or post-release supervision after completing serving an active sentence of imprisonment."

(c) G.S. 143B-273.12(c) reads as rewritten:

"(c) The proposed program shall target adult eligible offenders who either are in confinement awaiting trial, were convicted of a misdemeanor or a felony offense and received a nonincarcerative sentence of an intermediate punishment, or are serving a term of post-release supervision after completing active sentences of imprisonment. The priority populations shall be offenders sentenced to intermediate punishments and offenders who are appropriate for release from jail prior to trial under the supervision of a pretrial monitoring program, as defined in G.S. 143B-273.4."

Requested by: Senator Gulley

POST-RELEASE SUPERVISION AND PAROLE COMMISSION/REPORT ON STAFFING REORGANIZATION AND REDUCTION

Section 19.9. The Post-Release Supervision and Parole Commission shall report to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Corrections Oversight Committee by March 1, 1998, on a staffing reorganization and reduction plan. The report shall address the impact on Commission staffing of the declining parole workload, the automation of Commission functions, and the anticipated role of the Commission in Post-Release Supervision. The report shall include a transition plan for implementing staff reductions over the next five years, including a minimum of a ten percent (10%) reduction in the 1998-99 fiscal year over the 1997-98 fiscal year.

Requested by: Senator Gulley

FEDERAL MATCHING FUNDS

Section 19.10. Appropriations made for the 1997-99 biennium to the Office of State Construction of the Department of Administration for the planning and construction of new prison beds are to match federal funds available for prison construction. Appropriations not needed or used to match federal funds may be made available for construction of new prison beds, segregation units, support buildings and systems, and other needed facilities.

Requested by: Representatives Justus, Kiser, Thompson, Hill, Senators Gulley, Ballance, Rand

IMPACT DEFENDANTS IN DOC FACILITIES/CONTINUE IMPACT BOOT CAMP PROGRAM

Section 19.11. (a) G.S. 15A-1343(b1)(2a) reads as rewritten:

"(2a) Submit to a period of imprisonment confinement in a facility for youthful offenders operated by the Department of Correction for a minimum of 90 days or a maximum of 120 days under special probation, reference G.S. 15A-1351(a) or G.S. 15A-1344(e), and abide by all rules and regulations as provided in conjunction with the Intensive Motivational Program of Alternative Correctional Treatment (IMPACT), which provides an atmosphere for learning personal confidence, personal responsibility, self-respect, and respect for attitudes and value systems. This condition may also include a period of supervision through the Post-Boot Camp Probation Program."

(b) The Department of Correction may use up to the sum of three hundred fifty thousand dollars (\$350,000) in funds available for the 1997-98 fiscal year to continue the pilot project established in subsection 19(b) of Chapter 24 of the Session Laws of the 1994 Extra Session to provide treatment for offenders completing the IMPACT boot camp program.

Requested by: Representatives Justus, Kiser, Thompson

REPORT ON WOMEN AT RISK

Section 19.12. Women at Risk shall report by December 1 and May 1 of each year to the Joint Legislative Commission on Governmental Operations on the expenditure of State funds and on the effectiveness of the program, including information on the number of clients served, the number of clients who have had their probation revoked, and the number of clients who have successfully completed the program.

Requested by: Representatives Justus, Kiser, Thompson, Hill, Senators Gulley, Ballance, Rand

PERFORMANCE AUDIT OF DIVISION OF ADULT PROBATION AND PAROLE

Section 19.13. The State Auditor shall conduct a performance audit of the Division of Adult Probation and Parole in the Department of Correction.

The State Auditor shall report the audit results to the Chairs of the Senate and House Appropriations Committees, the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety, the Chairs of the Joint Legislative Corrections Oversight Committee, and the Joint Legislative Commission on Governmental Operations by June 1, 1998.

The performance audit of the Division of Adult Probation and Parole shall review the efficiency and effectiveness of major management policies, practices, and functions, including the following areas:

- (1) Organization and structure;
- (2) Effect of organizational relationships with other community correction programs and the Post-Release Supervision and Parole Commission;

- (3) Current staffing patterns and workload;
- (4) Current personnel and patronage practices, placing special emphasis on any existing abuses in those practices; and
- (5) General effectiveness of probation and parole.

Requested by: Representatives Justus, Kiser, Thompson, Hill, Senators Gulley, Ballance, Rand

WORKING HOURS OF EMPLOYEES IN STATE INSTITUTIONS

Section 19.14. G.S. 95-28 is repealed.

Requested by: Representatives Sexton, Justus, Kiser, Thompson, Hill, Senators Gulley, Ballance, Rand

TRANSFER ROCKINGHAM CORRECTIONAL CENTER

Section 19.15. The General Assembly finds that the Department of Correction, the Department of Transportation, and Rockingham County have compelling needs for the use of the below described land:

All that property lying south of N.C. Highway 65 upon which is situated the former Rockingham County Correctional Center building and grounds containing approximately 24 acres.

Therefore, the General Assembly urges the Department of Administration to initiate negotiations between the Department of Correction, the Department of Transportation, and Rockingham County to develop an agreement for the transfer of all or part of the described property to Rockingham County and the use or transfer of part of the described property or of other acceptable property to the Department of Transportation in a manner that meets the needs of all the parties. The General Assembly further urges the parties to implement the agreement in accordance with applicable law as soon as practicable.

Requested by: Representatives Justus, Kiser, Thompson, Hill, Senators Gulley, Ballance, Rand

FUNDING OF PRISON ROAD SQUADS

Section 19.16. Notwithstanding any other provision of law, the Department of Transportation shall reimburse the Department of Correction for the cost of inmate road squads on a cost basis, as provided for in G.S. 148-26.5.

Requested by: Representatives Justus, Kiser, Thompson, Hill, Senators Gulley, Ballance, Rand

PRIVATE PRISON EXPANSION/MORATORIUM ON PRIVATE PRISONS FOR OUT-OF-STATE INMATES

Section 19.17. (a) The Department of Correction, in consultation with the United States Corrections Corporation, shall determine the feasibility of expanding each of the two 500-bed private confinement facilities presently under construction to 1,000-bed facilities and the cost savings of that expansion over the construction of new facilities. The Department shall report its findings to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Corrections Oversight Committee by December 1, 1997.

(b) The Department of Correction, in cooperation with the Department of Justice, Department of Insurance, and Office of State Construction, shall establish proposed standards for any private correctional facilities in this State that are used to confine inmates from a jurisdiction other than North Carolina or a political subdivision of North Carolina. These standards shall include provisions for all such facilities to:

- (1) Meet minimum responsibility and insurance standards and may provide for the posting of surety bonds;
- (2) Meet or exceed all standards applicable to the State prison system, particularly those standards relating to inmate care and treatment;
- (3) Provide for the transfer or return of all inmates to the jurisdiction in which the inmates were originally convicted prior to release of the inmates;
- (4) Permit officials of the State of North Carolina to conduct periodic inspections of all such facilities; and
- (5) Meet any other standards the departments deem advisable.

The Department of Correction shall report on these proposed standards to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Corrections Oversight Committee, and the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety by May 1, 1998. The report shall include a recommendation on the appropriate regulatory agency or agencies to enforce these standards.

(c) No municipality, county, or private entity may authorize, construct, own, or operate any type of correctional facility for the confinement of inmates from any jurisdiction other than North Carolina or a political subdivision of North Carolina until the Department of Correction has developed proposed standards for such private correctional facilities pursuant to subsection (b) of this section and the General Assembly has acted upon those standards. No private confinement facility authorized under G.S. 148-37(g) that receives payment from this State for the housing of State prisoners may contain inmates from any jurisdiction other than North Carolina or a political subdivision of North Carolina without the written consent of the Secretary of Correction.

Requested by: Representatives Justus, Kiser, Thompson, Hill, Senators Gulley, Ballance, Rand

TITLE VII FUNDS/REPORT

Section 19.18. The Department of Correction may use funds available to the Department during the 1997-98 fiscal year for payment to claimants as part of the settlement of the Title VII lawsuit over the recruitment, hiring, and promotion of females in the Department. Prior to final settlement of the lawsuit, the Department shall report on the proposed settlement to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Corrections Oversight Committee, and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety.

Requested by: Senators Gulley, Ballance, Rand, Representatives Justus, Kiser, Thompson, Hill

NEW POSITIONS/MODULAR UNITS

Section 19.19. (a) The Department of Correction may use funds available for the 1997-98 fiscal year to fund up to four new temporary positions to operate new modular units at Henderson Correctional Center and Haywood Correctional Center.

(b) The Department of Correction may use funds available for the 1997-98 fiscal year to purchase and install a new modular unit at Martin Correctional Center.

(c) The Department of Correction shall report on its progress in the installation of all modular units to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Corrections Oversight Committee by March 1, 1998.

Requested by: Representatives Justus, Kiser, Thompson, Hill, Senators Gulley, Ballance, Rand

INMATE COSTS

Section 19.20. The Department of Correction may use funds available to the Department for the 1997-99 biennium to pay the cost of providing food and health care to inmates housed in the Division of Prisons if:

- (1) The prison population exceeds the December 1996 population projections of the North Carolina Sentencing and Policy Advisory Commission; and
- (2) The cost of providing food and health care to inmates is anticipated to exceed the continuation budget amounts provided for that purpose in this act.

Prior to making any expenditure authorized by this section, the Department of Correction shall report on its need to use these additional funds to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Corrections Oversight Committee, and the Chairs of the House and Senate Appropriations Committees.

Requested by: Representatives Justus, Kiser, Thompson, Hill, Senators Gulley, Ballance, Rand

INCREASE REIMBURSEMENT TO COUNTIES FOR STATE INMATES HOUSED IN LOCAL CONFINEMENT FACILITIES

Section 19.21. (a) The Department of Correction may use up to the sum of one million five hundred eighty-seven thousand four hundred nineteen dollars (\$1,587,419) in funds available for the 1997-98 fiscal year to raise the per diem reimbursement to counties from fourteen dollars and fifty cents (\$14.50) per day to eighteen dollars (\$18.00) per day for State inmates serving sentences of 30 days or more in local confinement facilities. If the Department finds it necessary to exceed this amount during the 1997-98 fiscal year in order to provide the required reimbursement, the Department shall report on its need to use additional funds to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Corrections Oversight Committee, and the Chairs of the House and Senate Appropriations Committees.

Of the funds appropriated to the Department of Correction in this act, the sum of one million nine hundred twelve thousand five hundred fifty-

three dollars (\$1,912,553) for the 1998-99 fiscal year shall be used to maintain the per diem reimbursement to counties at eighteen dollars (\$18.00) per day for State inmates serving sentences of 30 days or more in local confinement facilities.

(b) This section becomes effective September 1, 1997.

Requested by: Senator Gulley

USE OF FEDERAL PRISON CONSTRUCTION GRANT FUNDS

Section 19.22. The Department of Correction shall use federal grant funds received from the U.S. Justice Department as part of the Violent Offender Incarceration Program and the Truth-In-Sentencing Incentive Grant Program for the further planning and design and construction of the following State prison facilities, provided that the project meets the criteria of the federal grant program:

<u>Facility</u>	<u>Location</u>	<u>Number of Beds</u>	<u>Custody</u>
Central Prison	Wake	196	Close
Diagnostic Center			
Warren Correctional Institution	Warren	168	Med/Close
Improvements to NCCIW	Wake	208	Med/Close
Scotland Facility	Scotland	712	Close
Alexander Facility	Alexander	520	Close
Metro Facility	Charlotte	520	Close
	Area		

No more than the sum of seventeen million five hundred thousand dollars (\$17,500,000) in federal funds may be allocated to the Central Prison Diagnostic Center Project, the proposed revised Phase I of the Central Prison Master Plan, or the planning and design of the Warren, NCCIW, or Metro projects until federal funds have been allocated to complete the working drawings phase of planning and design for the Alexander and Scotland Close Custody Prison Facilities.

The Department of Correction shall report quarterly to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Corrections Oversight Committee on the allocation of any federal funds received and of anticipated future federal grant funds.

Requested by: Senators Gulley, Ballance, Rand, Representatives Justus, Kiser, Thompson, Hill

SUBSTANCE ABUSE FUNDS

Section 19.23. (a) Of the funds appropriated in the continuation budget to the Department of Correction for the 1997-99 biennium for private prison substance abuse beds, the Department shall allocate the sum of five hundred twenty-seven thousand eight hundred six dollars (\$527,806) for the 1997-98 fiscal year and the sum of four hundred fifty-four thousand seven hundred fifteen dollars (\$454,715) for the 1998-99 fiscal year to a Reserve for Substance Abuse. For the 1997-98 fiscal year, the Department shall allocate up to the sum of four hundred sixty-seven thousand eight hundred

six dollars (\$467,806) to the DART/DWI aftercare program at Cherry Hospital and up to the sum of sixty thousand dollars (\$60,000) for an evaluation of the Department's substance abuse programs. The evaluation study shall review and update findings from the study of Department of Correction substance abuse programs funded by the General Assembly in Section 19.1 of Chapter 507 of the 1995 Session Laws, expand the study to include the DART/DWI aftercare program, and develop proposed performance measures for the Department's substance abuse programs. The Department shall use up to the sum of four hundred fifty-four thousand seven hundred fifteen dollars (\$454,715) allocated for the 1998-99 fiscal year for the DART/DWI aftercare program at Cherry Hospital.

(b) The Secretary of Correction shall report to the Joint Legislative Corrections Oversight Committee, the Chairs of the Senate and House Appropriations Committees, and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety by May 1, 1998, on expenditures from the Reserve for Substance Abuse, on the cost and benefits the DART/DWI aftercare program, and the results of the substance abuse evaluation study.

Requested by: Senator Gulley, Representatives Justus, Kiser, Thompson
REPORT ON DART/DWI PROGRAM AT CHERRY HOSPITAL

Section 19.24. The Department of Correction shall report by December 1, 1997, and by May 1, 1998, to the Joint Legislative Corrections Oversight Committee, the Chairs of the Senate and House Appropriations Committees, and the Chairs of the Appropriations Subcommittees on Justice and Public Safety on the residential DWI/Substance Abuse Treatment Program for probationers and parolees at the DART facility at Cherry Hospital. The report shall include monthly statistical summaries of population versus capacity and comparisons of the percentage of offenders entering the program versus those completing the program, for both probationers and parolees. The report shall also include a budget report showing expenditures by purpose. If the program is not operating at capacity by the end of each reporting period, the Department of Correction shall explain the reasons for underutilization and its proposed strategies for addressing the problem of underutilization. Any new initiatives that would revise or expand the treatment model at the facility, along with the accompanying costs, shall also be included in each report.

Requested by: Senators Gulley, Ballance, Rand, Representatives Justus, Kiser, Thompson, Hill

ADDITIONAL PRISON BEDS/INCREASE THE CRIMINAL PENALTY FOR THE SALE OF CERTAIN CONTROLLED SUBSTANCES/INCREASE THE CRIMINAL PENALTY FOR CERTAIN EMBEZZLEMENT OFFENSES/RECLASSIFY OFFENSE OF ACCESSORY AFTER THE FACT/INCREASE PENALTY FOR VOLUNTARY MANSLAUGHTER FROM A CLASS E FELONY TO A CLASS D FELONY/INCREASE THE PENALTY FOR CERTAIN OFFENSES COMMITTED WHILE A PERSON IS INCARCERATED/ADD TO THE LIST OF AGGRAVATING FACTORS THAT CERTAIN

PEOPLE WERE SERIOUSLY INJURED AS A RESULT OF THE OFFENSE/INCREASE THE PENALTY FOR THE ESTABLISHMENT OF PYRAMID DISTRIBUTION PLANS/ESTABLISH THE OFFENSES OF TRESPASS ON PINE STRAW PRODUCTION LAND AND LARCENY OF PINE STRAW/INCREASE THE PENALTY FROM A MISDEMEANOR TO A CLASS H FELONY FOR THE OFFENSES OF FALSELY REPORTING THAT A BOMB OR OTHER DESTRUCTIVE DEVICE MAY EXPLODE AND PERPETRATING A HOAX BY USING A FALSE DESTRUCTIVE DEVICE/ADD TO THE LIST OF AGGRAVATING FACTORS THAT THE OFFENSE WAS COMMITTED IN ASSOCIATION WITH A CRIMINAL STREET GANG/FELONY TO CONCEAL MERCHANDISE BY USING A LEAD-LINED OR ALUMINUM-LINED BAG OR OTHER DEVICE THAT WILL PREVENT THE ACTIVATION OF AN ANTISHOPLIFTING CONTROL DEVICE/INCREASE THE PENALTIES FOR CERTAIN ASSAULTS ON A PROBATION OFFICER, PAROLE OFFICER, OR STATE OR COUNTY CORRECTIONS EMPLOYEE/LOWER MARIJUANA TRAFFICKING AMOUNTS

Section 19.25. (a) Of the funds appropriated to the Department of Correction in this act for the 1998-99 fiscal year, the sum of one hundred thirty-five thousand dollars (\$135,000) shall be placed in a reserve to fund additional prison beds and other associated costs to implement the provisions of this section.

(b) G.S. 90-95(b) reads as rewritten:

"(b) Except as provided in subsections (h) and (i) of this section, any person who violates G.S. 90-95(a)(1) with respect to:

- (1) A controlled substance classified in Schedule I or II shall be punished as a Class H felon; felon, except that the sale of a controlled substance classified in Schedule I or II shall be punished as a Class G felon;
- (2) A controlled substance classified in Schedule III, IV, V, or VI shall be punished as a Class I felon, except that the sale of a controlled substance classified in Schedule III, IV, V, or VI shall be punished as a Class H felon. ~~but the~~ The transfer of less than 5 grams of marijuana for no remuneration shall not constitute a delivery in violation of G.S. 90-95(a)(1)."

(c) G.S. 14-74 reads as rewritten:

"§ 14-74. *Larceny by servants and other employees.*

If any servant or other employee, to whom any money, goods or other chattels, or any of the articles, securities or choses in action mentioned in the following section [G.S. 14-75], by his master shall be delivered safely to be kept to the use of his master, shall withdraw himself from his master and go away with such money, goods or other chattels, or any of the articles, securities or choses in action mentioned as aforesaid, or any part thereof, with intent to steal the same and defraud his master thereof, contrary to the trust and confidence in him reposed by his said master; or if any servant, being in the service of his master, without the assent of his master, shall embezzle such money, goods or other chattels, or any of the articles, securities or choses in action mentioned as aforesaid, or any part thereof, or otherwise convert the same to his own use, with like purpose to steal them,

or to defraud his master thereof, the servant so offending shall be ~~punished as a Class H felon; guilty of a felony~~. Provided, that nothing contained in this section shall extend to apprentices or servants within the age of 16 years. If the value of the money, goods, or other chattels, or any of the articles, securities, or choses in action mentioned in G.S. 14-75, is one hundred thousand dollars (\$100,000) or more, the person is ~~guilty of a Class C felony~~. If the value of the money, goods, or other chattels, or any of the articles, securities, or choses in action mentioned in G.S. 14-75, is less than one hundred thousand dollars (\$100,000), the person is ~~guilty of a Class H felony~~."

(d) G.S. 14-90 reads as rewritten:

"§ 14-90. *Embezzlement of property received by virtue of office or employment.*

If any person exercising a public trust or holding a public office, or any guardian, administrator, executor, trustee, or any receiver, or any other fiduciary, or any officer or agent of a corporation, or any agent, consignee, clerk, bailee or servant, except persons under the age of 16 years, of any person, shall embezzle or fraudulently or knowingly and willfully misapply or convert to his own use, or shall take, make away with or secrete, with intent to embezzle or fraudulently or knowingly and willfully misapply or convert to his own use any money, goods or other chattels, bank note, check or order for the payment of money issued by or drawn on any bank or other corporation, or any treasury warrant, treasury note, bond or obligation for the payment of money issued by the United States or by any state, or any other valuable security whatsoever belonging to any other person or corporation, unincorporated association or organization which shall have come into his possession or under his care, he shall be ~~punished as a Class H felon; guilty of a felony~~. If the value of the property is one hundred thousand dollars (\$100,000) or more, the person is ~~guilty of a Class C felony~~. If the value of the property is less than one hundred thousand dollars (\$100,000), the person is ~~guilty of a Class H felony~~."

(e) G.S. 14-91 reads as rewritten:

"§ 14-91. *Embezzlement of State property by public officers and employees.*

If any officer, agent, or employee of the State, or other person having or holding in trust for the same any bonds issued by the State, or any security, or other property and effects of the same, shall embezzle or knowingly and willfully misapply or convert the same to his own use, or otherwise willfully or corruptly abuse such trust, such offender and all persons knowingly and willfully aiding and abetting or otherwise assisting therein shall be ~~punished as a Class F felon; guilty of a felony~~. If the value of the property is one hundred thousand dollars (\$100,000) or more, a violation of this section is a ~~Class C felony~~. If the value of the property is less than one hundred thousand dollars (\$100,000), a violation of this section is a ~~Class F felony~~."

(f) G.S. 14-92 reads as rewritten:

"§ 14-92. *Embezzlement of funds by public officers and trustees.*

If an officer, agent, or employee of an entity listed below, or a person having or holding money or property in trust for one of the listed entities, shall embezzle or otherwise willfully and corruptly use or misapply the same for any purpose other than that for which such moneys or property is held,

such person shall be ~~punished as a Class F felon,~~ guilty of a felony. If the value of the money or property is one hundred thousand dollars (\$100,000) or more, the person is guilty of a Class C felony. If the value of the money or property is less than one hundred thousand dollars (\$100,000), the person is guilty of a Class F felony. If any clerk of the superior court or any sheriff, treasurer, register of deeds or other public officer of any county, unit or agency of local government, or local board of education shall embezzle or wrongfully convert to his own use, or corruptly use, or shall misapply for any purpose other than that for which the same are held, or shall fail to pay over and deliver to the proper persons entitled to receive the same when lawfully required so to do, any moneys, funds, securities or other property which such officer shall have received by virtue or color of his office in trust for any person or corporation, such officer shall be ~~punished as a Class F felon,~~ guilty of a felony. If the value of the money, funds, securities, or other property is one hundred thousand dollars (\$100,000) or more, the person is guilty of a Class C felony. If the value of the money, funds, securities, or other property is less than one hundred thousand dollars (\$100,000), the person is guilty of a Class F felony. The provisions of this section shall apply to all persons who shall go out of office and fail or neglect to account to or deliver over to their successors in office or other persons lawfully entitled to receive the same all such moneys, funds and securities or property aforesaid. The following entities are protected by this section: a county, a city or other unit or agency of local government, a local board of education, and a penal, charitable, religious, or educational institution."

(g) G.S. 14-93 reads as rewritten:

"§ 14-93. *Embezzlement by treasurers of charitable and religious organizations.*

If any treasurer or other financial officer of any benevolent or religious institution, society or congregation shall lend any of the moneys coming into his hands to any other person or association without the consent of the institution, association or congregation to whom such moneys belong; or, if he shall fail to account for such moneys when called on, he shall be guilty of a ~~Class H~~ felony. If the violation of this section involves money with a value of one hundred thousand dollars (\$100,000) or more, the person is guilty of a Class C felony. If the violation of this section involves money with a value of less than one hundred thousand dollars (\$100,000) or less, a violation of this section is a Class H felony."

(h) G.S. 14-94 reads as rewritten:

"§ 14-94. *Embezzlement by officers of railroad companies.*

If any president, secretary, treasurer, director, engineer, agent or other officer of any railroad company shall embezzle any moneys, bonds or other valuable funds or securities, with which such president, secretary, treasurer, director, engineer, agent or other officer shall be charged by virtue of his office or agency, or shall in any way, directly or indirectly, apply or appropriate the same for the use or benefit of himself or any other person, state or corporation, other than the company of which he is president, secretary, treasurer, director, engineer, agent or other officer, for every such offense the person so offending shall be guilty of a felony, and on

conviction in the superior or criminal court of any county through which the railroad of such company shall pass, shall be punished as a ~~Class H~~ felon. If the value of the money, bonds, or other valuable funds or securities is one hundred thousand dollars (\$100,000) or more, a violation of this section is a Class C felony. If the value of the money, bonds, or other valuable funds or securities is less than one hundred thousand dollars (\$100,000), a violation of this section is a Class H felony."

(i) G.S. 14-97 reads as rewritten:

"§ 14-97. *Appropriation of partnership funds by partner to personal use.*

Any person engaged in a partnership business in the State of North Carolina who shall, without the knowledge and consent of his copartner or copartners, take funds belonging to the partnership business and appropriate the same to his own personal use with the fraudulent intent of depriving his copartners of the use thereof, shall be guilty of a ~~Class H~~ felony. Appropriation of partnership funds with a value of one hundred thousand dollars (\$100,000) or more by a partner is a Class C felony. Appropriation of partnership funds with the value of less than one hundred thousand dollars (\$100,000) by a partner is a Class H felony."

(j) G.S. 14-98 reads as rewritten:

"§ 14-98. *Embezzlement by surviving partner.*

If any surviving partner shall willfully and intentionally convert any of the property, money or effects belonging to the partnership to his own use, and refuse to account for the same on settlement, he shall be ~~punished as a Class H felon~~, guilty of a felony. If the property, money, or effects has a value of one hundred thousand dollars (\$100,000) or more, a violation of this section is a Class C felony. If the property, money, or effects has a value of less than one hundred thousand dollars (\$100,000), a violation of this section is a Class H felony."

(k) G.S. 14-99 reads as rewritten:

"§ 14-99. *Embezzlement of taxes by officers.*

If any officer appropriates to his own use the State, county, school, city or town taxes, he shall be guilty of embezzlement, and shall be punished as a ~~Class E~~ felon. If the value of the taxes is one hundred thousand dollars (\$100,000) or more, a violation of this section is a Class C felony. If the value of the taxes is less than one hundred thousand dollars (\$100,000), a violation of this section is a Class F felony."

(l) G.S. 14-100(a) reads as rewritten:

"(a) If any person shall knowingly and designedly by means of any kind of false pretense whatsoever, whether the false pretense is of a past or subsisting fact or of a future fulfillment or event, obtain or attempt to obtain from any person within this State any money, goods, property, services, chose in action, or other thing of value with intent to cheat or defraud any person of such money, goods, property, services, chose in action or other thing of value, such person shall be guilty of a ~~felony, and shall be punished as a Class H felon~~ felony: Provided, that if, on the trial of anyone indicted for such crime, it shall be proved that he obtained the property in such manner as to amount to larceny or embezzlement, the jury shall have submitted to them such other felony proved; and no person tried for such felony shall be liable to be afterwards prosecuted for larceny or

embezzlement upon the same facts: Provided, further, that it shall be sufficient in any indictment for obtaining or attempting to obtain any such money, goods, property, services, chose in action, or other thing of value by false pretenses to allege that the party accused did the act with intent to defraud, without alleging an intent to defraud any particular person, and without alleging any ownership of the money, goods, property, services, chose in action or other thing of value; and upon the trial of any such indictment, it shall not be necessary to prove either an intent to defraud any particular person or that the person to whom the false pretense was made was the person defrauded, but it shall be sufficient to allege and prove that the party accused made the false pretense charged with an intent to defraud. If the value of the money, goods, property, services, chose in action, or other thing of value is one hundred thousand dollars (\$100,000) or more, a violation of this section is a Class C felony. If the value of the money, goods, property, services, chose in action, or other thing of value is less than one hundred thousand dollars (\$100,000), a violation of this section is a Class H felony."

(m) G.S. 53-129 reads as rewritten:

"§ 53-129. *Misapplication, embezzlement of funds, etc.*

Whoever being an officer, employee, agent or director of a bank, with intent to defraud or injure the bank, or any person or corporation, or to deceive an officer of the bank or an agent appointed to examine the affairs of such bank, embezzles, abstracts, or misapplies any of the money, funds, credit or property of such bank, whether owned by it or held in trust, or who, with such intent, willfully and fraudulently issues or puts forth a certificate of deposit, draws an order or bill of exchange, makes an acceptance, assigns a note, bond, draft, bill of exchange, mortgage, judgment, decree or fictitiously borrows or solicits, obtains or receives money for a bank not in good faith, intended to become the property of such bank; or whoever being an officer, employee, agent, or director of a bank, makes or permits the making of a false statement or certificate, as to a deposit, trust fund or contract, or makes or permits to be made a false entry in a book, report, statement or record of such bank, or conceals or permits to be concealed by any means or manner, the true and correct entries of said bank, or its true and correct transactions, who knowingly loans, or permits to be loaned, the funds or credit of any bank to any insolvent company or corporation, or corporation which has ceased to exist, or which never had any existence, or upon collateral consisting of stocks or bonds of such company or corporation, or who makes or publishes or knowingly permits to be made or published a false report, statement or certificate as to the true financial condition of such bank, shall be ~~punished as a Class H felon-~~ guilty of a felony. If an offense committed under this section involves money, funds, credit, or property with a value of one hundred thousand dollars (\$100,000) or more, it is a Class C felony. If an offense committed under this section involves money, funds, credit, or property with a value of less than one hundred thousand dollars (\$100,000), it is a Class H felony. Any other offense committed under this section is a Class H felony."

(n) G.S. 58-2-162 reads as rewritten:

"§ 58-2-162. *Embezzlement by insurance agents, brokers, or administrators.*

If any insurance agent, broker, or administrator embezzles or fraudulently converts to his own use, or, with intent to use or embezzle, takes, secretes, or otherwise disposes of, or fraudulently withholds, appropriates, lends, invests, or otherwise uses or applies any money, negotiable instrument, or other consideration received by him in his performance as an agent, broker, or administrator, he shall be ~~punished as a Class H felon~~, guilty of a felony. If the value of the money, negotiable instrument, or other consideration is one hundred thousand dollars (\$100,000) or more, violation of this section is a Class C felony. If the value of the money, negotiable instrument, or other consideration is less than one hundred thousand dollars (\$100,000), violation of this section is a Class H felony."

(o) G.S. 90-210.70(a) reads as rewritten:

"(a) Anyone who embezzles or who fraudulently, or knowingly and willfully misapplies, or in any manner converts preneed funeral funds to his own use, or for the use of any partnership, corporation, association, or entity for any purpose other than as authorized by this Article; or anyone who takes, makes away with or secretes, with intent to embezzle or fraudulently or knowingly and willfully misapply or in any manner convert preneed funeral funds for his own use or the use of any other person for any purpose other than as authorized by this Article shall be ~~punished as a Class H felon~~, guilty of a felony. If the value of the preneed funeral funds is one hundred thousand dollars (\$100,000) or more, violation of this section is a Class C felony. If the value of the preneed funeral funds is less than one hundred thousand dollars (\$100,000), violation of this section is a Class H felony. Each such embezzlement, conversion, or misapplication shall constitute a separate offense and may be prosecuted individually. Upon conviction, all licenses issued under this Article shall be revoked."

(p) G.S. 14-7 reads as rewritten:

"§ 14-7. *Accessories after the fact; trial and punishment.*

If any person shall become an accessory after the fact to any felony, whether the same be a felony at common law or by virtue of any statute made, or to be made, such person shall be guilty of a ~~felony, crime~~, and may be indicted and convicted together with the principal felon, or after the conviction of the principal felon, or may be indicted and convicted for such ~~felony crime~~ whether the principal felon shall or shall not have been previously convicted, or shall or shall not be amenable to ~~justice, and shall be punished as a Class H felon~~, justice. Unless a different classification is expressly stated, that person shall be punished for an offense that is two classes lower than the felony the principal felon committed, except that an accessory after the fact to a Class A or Class B1 felony is a Class C felony, an accessory after the fact to a Class B2 felony is a Class D felony, an accessory after the fact to a Class H felony is a Class 1 misdemeanor, and an accessory after the fact to a Class I felony is a Class 2 misdemeanor. The offense of such person may be inquired of, tried, determined and punished by any court which shall have jurisdiction of the principal felon, in the same manner as if the act, by reason whereof such person shall have become an accessory, had been committed at the same place as the principal felony, although such act may have been committed without the limits of the

State; and in case the principal felony shall have been committed within the body of any county, and the act by reason whereof any person shall have become accessory shall have been committed within the body of any other county, the offense of such person guilty of a felony as aforesaid may be inquired of, tried, determined, and punished in either of said counties: Provided, that no person who shall be once duly tried for such felony shall be again indicted or tried for the same offense."

(q) G.S. 14-18 reads as rewritten:

"§ 14-18. *Punishment for manslaughter.*

Voluntary manslaughter shall be punishable as a Class E D felony, and involuntary manslaughter shall be punishable as a Class F felony."

(r) G.S. 14-255 reads as rewritten:

"§ 14-255. *Escape of working prisoners from custody.*

If any prisoner removed from the local confinement facility or satellite jail/work release unit of a county pursuant to G.S. 162-58 shall escape from the person having him in custody or the person supervising him, he shall be guilty of a Class 3 1 misdemeanor."

(s) G.S. 14-256 reads as rewritten:

"§ 14-256. *Prison breach and escape from county or municipal confinement facilities or officers.*

If any person shall break any prison, jail or lockup maintained by any county or municipality in North Carolina, being lawfully confined therein, or shall escape from the lawful custody of any superintendent, guard or officer of such prison, jail or lockup, he shall be guilty of a Class 1 H felony if:

- (1) He has been convicted of a felony and has been committed to the facility pending transfer to the State prison system; or
- (2) He is serving a sentence imposed upon conviction of a felony."

(t) G.S. 148-45 reads as rewritten:

"§ 148-45. *Escaping or attempting escape from State prison system; failure of conditionally and temporarily released prisoners and certain youthful offenders to return to custody of Department of Correction.*

(a) Any person in the custody of the Department of Correction in any of the classifications hereinafter set forth who shall escape from the State prison system, shall for the first such offense, except as provided in subsection (g) of this section, be guilty of a Class ~~I~~ 1 ~~felony~~ misdemeanor:

- (1) A prisoner serving a sentence imposed upon conviction of a misdemeanor;
- (2) A person who has been charged with a misdemeanor and who has been committed to the custody of the Department of Correction under the provisions of G.S. 162-39;
- (3) Repealed by Session Laws 1985, c. 226, s. 4.
- (4) A person who shall have been convicted of a misdemeanor and who shall have been committed to the Department of Correction for presentence diagnostic study under the provisions of G.S. 15A-1332(c).

(b) Any person in the custody of the Department of Correction, in any of the classifications hereinafter set forth, who shall escape from the State

prison system, shall, except as provided in subsection (g) of this section, be punished as a Class I H felon.

- (1) A prisoner serving a sentence imposed upon conviction of a felony;
 - (2) A person who has been charged with a felony and who has been committed to the custody of the Department of Correction under the provisions of G.S. 162-39;
 - (3) Repealed by Session Laws 1985, c. 226, s. 5.
 - (4) A person who shall have been convicted of a felony and who shall have been committed to the Department of Correction for presentence diagnostic study under the provisions of G.S. 15A-1332(c); or
 - (5) Any person previously convicted of escaping or attempting to escape from the State prison system.
- (c) Repealed by Session Laws 1979, c. 760, s. 5.
- (d) Any person who aids or assists other persons to escape or attempt to escape from the State prison system shall be guilty of a Class 1 misdemeanor.
- (e) Repealed by Session Laws 1983, c. 465, s. 5.
- (f) Any person convicted of an escape or attempt to escape classified as a felony by this section shall be immediately classified and treated as a convicted felon even if such person has time remaining to be served in the State prison system on a sentence or sentences imposed upon conviction of a misdemeanor or misdemeanors.
- (g) (1) Any person convicted and in the custody of the North Carolina Department of Correction and ordered or otherwise assigned to work under the work-release program, G.S. 148-33.1, or any convicted person in the custody of the North Carolina Department of Correction and temporarily allowed to leave a place of confinement by the Secretary of Correction or his designee or other authority of law, who shall fail to return to the custody of the North Carolina Department of Correction, shall be guilty of the crime of escape and subject to the applicable provisions of this section and shall be deemed an escapee. For the purpose of this subsection, escape is defined to include, but is not restricted to, willful failure to return to an appointed place and at an appointed time as ordered.
- (2) If a person, who would otherwise be guilty of a first violation of G.S. 148-45(g)(1), voluntarily returns to his place of confinement within 24 hours of the time at which he was ordered to return, such person shall not be charged with an escape as provided in this section but shall be subject to such administrative action as may be deemed appropriate for an escapee by the Department of Correction; said escapee shall not be allowed to be placed on work release for a four-month period or for the balance of his term if less than four months; provided, however, that if such person commits a subsequent violation of this section then such person shall be charged with

that offense and, if convicted, punished under the provisions of this section."

(u) G.S. 90-95(e) reads as rewritten:

"(e) The prescribed punishment and degree of any offense under this Article shall be subject to the following conditions, but the punishment for an offense may be increased only by the maximum authorized under any one of the applicable conditions:

- (1), (2) Repealed by Session Laws 1979, c. 760, s. 5.
- (3) If any person commits a Class 1 misdemeanor under this Article and if he has previously been convicted for one or more offenses under any law of North Carolina or any law of the United States or any other state, which offenses are punishable under any provision of this Article, he shall be punished as a Class I felon. The prior conviction used to raise the current offense to a Class I felony shall not be used to calculate the prior record level;
- (4) If any person commits a Class 2 misdemeanor, and if he has previously been convicted for one or more offenses under any law of North Carolina or any law of the United States or any other state, which offenses are punishable under any provision of this Article, he shall be guilty of a Class 1 misdemeanor. The prior conviction used to raise the current offense to a Class 1 misdemeanor shall not be used to calculate the prior conviction level;
- (5) Any person 18 years of age or over who violates G.S. 90-95(a)(1) by selling or delivering a controlled substance to a person under 16 years of age or a pregnant female shall be punished as a Class D felon. Mistake of age is not a defense to a prosecution under this section. It shall not be a defense that the defendant did not know that the recipient was pregnant;
- (6) For the purpose of increasing punishment under G.S. 90-95(e)(3) and (e)(4), previous convictions for offenses shall be counted by the number of separate trials at which final convictions were obtained and not by the number of charges at a single trial;
- (7) If any person commits an offense under this Article for which the prescribed punishment requires that any sentence of imprisonment be suspended, and if he has previously been convicted for one or more offenses under any law of North Carolina or any law of the United States or any other state, which offenses are punishable under any provision of this Article, he shall be guilty of a Class 2 misdemeanor;
- (8) Any person 21 years of age or older who commits an offense under G.S. 90-95(a)(1) on property used for an elementary or secondary school or within 300 feet of the boundary of real property used for an elementary or secondary school shall be punished as a Class E felon. For purposes of this subdivision, the transfer of less than five grams of marijuana for no remuneration shall not constitute a delivery in violation of G.S. 90-95(a)(1).

- (9) Any person who violates G.S. 90-95(a)(3) on the premises of a penal institution or local confinement facility shall be guilty of a Class I H felony."

(v) G.S. 148-46.1 reads as rewritten:

"§ 148-46.1. *Inflicting or assisting in infliction of self injury to prisoner resulting in incapacity to perform assigned duties.*

Any person serving a sentence or sentences within the State prison system who, during the term of such imprisonment, willfully and intentionally inflicts upon himself any injury resulting in a permanent or temporary incapacity to perform work or duties assigned to him by the State Department of Correction, or any prisoner who aids or abets any other prisoner in the commission of such offense, shall be punished as a Class I H felon."

(w) G.S. 15A-1340.16(d) reads as rewritten:

"(d) Aggravating Factors. -- The following are aggravating factors:

- (1) The defendant induced others to participate in the commission of the offense or occupied a position of leadership or dominance of other participants.
- (2) The defendant joined with more than one other person in committing the offense and was not charged with committing a conspiracy.
- (3) The offense was committed for the purpose of avoiding or preventing a lawful arrest or effecting an escape from custody.
- (4) The defendant was hired or paid to commit the offense.
- (5) The offense was committed to disrupt or hinder the lawful exercise of any governmental function or the enforcement of laws.
- (6) The offense was committed against or proximately caused serious injury to a present or former law enforcement officer, employee of the Department of Correction, jailer, fireman, emergency medical technician, ambulance attendant, justice or judge, clerk or assistant or deputy clerk of court, magistrate, prosecutor, juror, or witness against the defendant, while engaged in the performance of that person's official duties or because of the exercise of that person's official duties.
- (7) The offense was especially heinous, atrocious, or cruel.
- (8) The defendant knowingly created a great risk of death to more than one person by means of a weapon or device which would normally be hazardous to the lives of more than one person.
- (9) The defendant held public office at the time of the offense and the offense related to the conduct of the office.
- (10) The defendant was armed with or used a deadly weapon at the time of the crime.
- (11) The victim was very young, or very old, or mentally or physically infirm, or handicapped.
- (12) The defendant committed the offense while on pretrial release on another charge.
- (13) The defendant involved a person under the age of 16 in the commission of the crime.

- (14) The offense involved an attempted or actual taking of property of great monetary value or damage causing great monetary loss, or the offense involved an unusually large quantity of contraband.
- (15) The defendant took advantage of a position of trust or confidence to commit the offense.
- (16) The offense involved the sale or delivery of a controlled substance to a minor.
- (17) The offense for which the defendant stands convicted was committed against a victim because of the victim's race, color, religion, nationality, or country of origin.
- (18) The defendant does not support the defendant's family.
- (18a) The defendant has previously been adjudicated delinquent for an offense that would be a Class A, B1, B2, C, D, or E felony if committed by an adult.
- (19) The serious injury inflicted upon the victim is permanent and debilitating.
- (20) Any other aggravating factor reasonably related to the purposes of sentencing.

Evidence necessary to prove an element of the offense shall not be used to prove any factor in aggravation, and the same item of evidence shall not be used to prove more than one factor in aggravation. Evidence necessary to establish that an enhanced sentence is required under G.S. 14-2.2 may not be used to prove any factor in aggravation.

The judge shall not consider as an aggravating factor the fact that the defendant exercised the right to a jury trial."

(x) G.S. 14-291.2 reads as rewritten:

"§ 14-291.2. *Pyramid and chain schemes prohibited.*

(a) ~~Any~~ No person who shall establish, ~~promote, operate or participate in~~ operate, participate in, or otherwise promote any pyramid distribution plan, program, device or scheme whereby a participant pays a valuable consideration for the opportunity or chance to receive a fee or compensation upon the introduction of other participants into the program, whether or not such opportunity or chance is received in conjunction with the purchase of ~~merchandise, shall be deemed to have participated~~ merchandise. A person who establishes or operates a pyramid distribution plan is guilty of a Class H felony. A person who participates in or otherwise promotes a pyramid distribution plan is deemed to participate in a lottery and ~~shall be is~~ is guilty of a Class 2 misdemeanor.

(b) 'Pyramid distribution plan' means any program utilizing a pyramid or chain process by which a participant gives a valuable consideration for the opportunity to receive compensation or things of value in return for inducing other persons to become participants in the program; and

'Compensation' does not mean payment based on sales of goods or services to persons who are not participants in the scheme, and who are not purchasing in order to participate in the scheme; and scheme.

~~'Promotes' shall mean inducing one or more other persons to become a participant.~~

(c) Any judge of the superior court shall have jurisdiction, upon petition by the Attorney General of North Carolina or district attorney of the

superior court, to enjoin, as an unfair or deceptive trade practice, the continuation of the scheme described in subsection (a); in such proceeding the court may assess civil penalties and attorneys' fees to the Attorney General or the District Attorney pursuant to G.S. 75-15.2 and 75-16.1; and the court may appoint a receiver to secure and distribute assets obtained by any defendant through participation in any such scheme.

(d) Any contract hereafter created for which a part of the consideration consisted of the opportunity or chance to participate in a program described in subsection (a) is hereby declared to be contrary to public policy and therefore void and unenforceable."

(y) The title of Article 22A of Chapter 14 of the General Statutes reads as rewritten:

"ARTICLE 22A.

Trespassing upon 'Posted' Property to Hunt,
~~Fish or Trap.~~ Fish, Trap, or Remove Pine Needles/Straw."

(z) G.S. 14-159.6 reads as rewritten:

"§ 14-159.6. *Trespass for purposes of hunting, etc., without written consent a misdemeanor.*

(a) Any person who willfully goes on the land, waters, ponds, or a legally established waterfowl blind of another upon which notices, signs or ~~posters, described in G.S. 14-159.7,~~ posters prohibiting hunting, fishing or ~~trapping,~~ trapping have been placed in accordance with the provisions of G.S. 14-159.7, or upon which 'posted' notices have been placed, placed in accordance with the provisions of G.S. 14-159.7, to hunt, fish or trap without the written consent of the owner or his agent shall be guilty of a Class 2 misdemeanor. Provided, further, that no arrests under authority of this section subsection shall be made without the consent of the owner or owners of said land, or their duly authorized agents in the following counties: Halifax and Warren.

(b) Any person who willfully goes on the land of another upon which notices, signs, or posters prohibiting raking or removing pine needles or pine straw have been placed in accordance with the provisions of G.S. 14-159.7, or upon which 'posted' notices have been placed in accordance with the provisions of G.S. 14-159.7, to rake or remove pine needles or pine straw without the written consent of the owner or his agent shall be guilty of a Class 1 misdemeanor."

(aa) Article 16 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-79.1. *Larceny of pine needles or pine straw.*

If any person shall take and carry away, or shall aid in taking or carrying away, any pine needles or pine straw being produced on the land of another person upon which land notices, signs, or posters prohibiting the raking or removal of pine needles or pine straw have been placed in accordance with the provisions of G.S. 14-159.7, or upon which posted notices have been placed in accordance with the provisions of G.S. 14-159.7, with the intent to steal the pine needles or pine straw, that person shall be guilty of a Class H felony."

(bb) Chapter 601 of the 1995 Session Laws is repealed.

(cc) G.S. 14-69.1 reads as rewritten:

"§ 14-69.1. Making a false report concerning destructive device.

(a) If any person shall, by any means of communication to any person or group of persons, make a report, knowing or having reason to know the same to be false, that there is located in any building, house or other structure whatsoever or any vehicle, aircraft, vessel or boat any device designed to destroy or damage the building, house or structure or vehicle, aircraft, vessel or boat by explosion, blasting or burning, he shall be guilty of a Class 1 misdemeanor. H felony.

~~(b) If any person shall, by any means of communication to any person or group of persons, make a report, knowing or having reason to know the same to be false, that there is located in any hospital facility as defined in G.S. 131E-6, which includes a health clinic facility, any device designed to destroy or damage the hospital or health clinic facility by explosion, blasting, or burning, he shall, upon a first conviction, be guilty of a Class 1 misdemeanor, punishable by a minimum of 100 hours of mandatory community service. Upon a second or subsequent conviction under this subsection, he shall be guilty of a Class I felony."~~

(dd) G.S. 14-69.2 reads as rewritten:

"§ 14-69.2. Perpetrating hoax by use of false bomb or other device.

(a) If any person, with intent to perpetrate a hoax, shall secrete, place or display any device, machine, instrument or artifact, so as to cause any person reasonably to believe the same to be a bomb or other device capable of causing injury to persons or property, he shall be guilty of a Class 1 misdemeanor. H felony.

~~(b) A violation of subsection (a) of this section that occurs in a hospital facility as defined in G.S. 131E-6 is, upon a first conviction, a Class 1 misdemeanor punishable by a minimum of 100 hours of mandatory community service. A second or subsequent conviction under subsection (a) of this section is a Class I felony."~~

(ee) G.S. 15A-1340.16(d) reads as rewritten:

"(d) Aggravating Factors. -- The following are aggravating factors:

- (1) The defendant induced others to participate in the commission of the offense or occupied a position of leadership or dominance of other participants.
- (2) The defendant joined with more than one other person in committing the offense and was not charged with committing a conspiracy.

(2a) The offense was committed for the benefit of, or at the direction of, any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, and the defendant was not charged with committing a conspiracy. A 'criminal street gang' means any ongoing organization, association, or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of felony or violent misdemeanor offenses, or delinquent acts that would be felonies or violent misdemeanors if committed by an adult, and having a common name or common identifying sign, colors, or symbols.

- (3) The offense was committed for the purpose of avoiding or preventing a lawful arrest or effecting an escape from custody.
- (4) The defendant was hired or paid to commit the offense.
- (5) The offense was committed to disrupt or hinder the lawful exercise of any governmental function or the enforcement of laws.
- (6) The offense was committed against a present or former law enforcement officer, employee of the Department of Correction, jailer, fireman, emergency medical technician, ambulance attendant, justice or judge, clerk or assistant or deputy clerk of court, magistrate, prosecutor, juror, or witness against the defendant, while engaged in the performance of that person's official duties or because of the exercise of that person's official duties.
- (7) The offense was especially heinous, atrocious, or cruel.
- (8) The defendant knowingly created a great risk of death to more than one person by means of a weapon or device which would normally be hazardous to the lives of more than one person.
- (9) The defendant held public office at the time of the offense and the offense related to the conduct of the office.
- (10) The defendant was armed with or used a deadly weapon at the time of the crime.
- (11) The victim was very young, or very old, or mentally or physically infirm, or handicapped.
- (12) The defendant committed the offense while on pretrial release on another charge.
- (13) The defendant involved a person under the age of 16 in the commission of the crime.
- (14) The offense involved an attempted or actual taking of property of great monetary value or damage causing great monetary loss, or the offense involved an unusually large quantity of contraband.
- (15) The defendant took advantage of a position of trust or confidence to commit the offense.
- (16) The offense involved the sale or delivery of a controlled substance to a minor.
- (17) The offense for which the defendant stands convicted was committed against a victim because of the victim's race, color, religion, nationality, or country of origin.
- (18) The defendant does not support the defendant's family.
- (18a) The defendant has previously been adjudicated delinquent for an offense that would be a Class A, B1, B2, C, D, or E felony if committed by an adult.
- (19) The serious injury inflicted upon the victim is permanent and debilitating.
- (20) Any other aggravating factor reasonably related to the purposes of sentencing.

Evidence necessary to prove an element of the offense shall not be used to prove any factor in aggravation, and the same item of evidence shall not be used to prove more than one factor in aggravation. Evidence necessary to

establish that an enhanced sentence is required under G.S. 14-2.2 may not be used to prove any factor in aggravation.

The judge shall not consider as an aggravating factor the fact that the defendant exercised the right to a jury trial."

(ff) G.S. 14-72.1 is amended by adding a new subsection to read:

"(dl) Notwithstanding subsection (e) of this section, any person who violates subsection (a) of this section by using a lead-lined or aluminum-lined bag, a lead-lined or aluminum-lined article of clothing, or a similar device to prevent the activation of any antishoplifting or inventory control device is guilty of a Class H felony."

(gg) G.S. 14-34.5 reads as rewritten:

"§ 14-34.5. Assault with a firearm on a law ~~enforcement officer~~, ~~enforcement, probation, or parole officer~~ or on a person employed at a State or local detention facility."

(a) Any person who commits an assault with a firearm upon a law ~~enforcement officer~~ officer, probation officer, or parole officer while the law ~~enforcement~~ officer is in the performance of his or her duties is guilty of a Class E felony.

(b) Anyone who commits an assault with a firearm upon a person who is employed at a detention facility operated under the jurisdiction of the State or a local government while the employee is in the performance of the employee's duties is guilty of a Class E felony."

(hh) G.S. 14-34.7 reads as rewritten:

"§ 14-34.7. Assault on a law ~~enforcement officer~~, ~~enforcement, probation, or parole officer~~ or on a person employed at a State or local detention facility."

(a) Unless covered under some other provision of law providing greater punishment, a person is guilty of a Class F felony if the person assaults a law ~~enforcement officer~~ officer, probation officer, or parole officer while the law ~~enforcement~~ officer is discharging or attempting to discharge his or her official duties and inflicts serious bodily injury on the law ~~enforcement~~ officer.

(b) Anyone who assaults a person who is employed at a detention facility operated under the jurisdiction of the State or a local government while the employee is in the performance of the employee's duties and inflicts serious bodily injury on the employee is guilty of a Class F felony, unless the person's conduct is covered under some other provision of law providing greater punishment."

(ii) G.S. 90-95(h) reads as rewritten:

"(h) Notwithstanding any other provision of law, the following provisions apply except as otherwise provided in this Article.

(1) Any person who sells, manufactures, delivers, transports, or possesses in excess of 50 10 pounds (avoirdupois) of marijuana shall be guilty of a felony which felony shall be known as 'trafficking in marijuana' and if the quantity of such substance involved:

a. Is in excess of 50 10 pounds, but less than ~~100~~ 50 pounds, such person shall be punished as a Class H felon and shall be sentenced to a minimum term of 25 months and a maximum

term of 30 months in the State's prison and shall be fined not less than five thousand dollars (\$5,000);

- b. Is ~~100~~ 50 pounds or more, but less than 2,000 pounds, such person shall be punished as a Class G felon and shall be sentenced to a minimum term of 35 months and a maximum term of 42 months in the State's prison and shall be fined not less than twenty-five thousand dollars (\$25,000);
- c. Is 2,000 pounds or more, but less than 10,000 pounds, such person shall be punished as a Class F felon and shall be sentenced to a minimum term of 70 months and a maximum term of 84 months in the State's prison and shall be fined not less than fifty thousand dollars (\$50,000);
- d. Is 10,000 pounds or more, such person shall be punished as a Class D felon and shall be sentenced to a minimum term of 175 months and a maximum term of 219 months in the State's prison and shall be fined not less than two hundred thousand dollars (\$200,000).

- (2) Any person who sells, manufactures, delivers, transports, or possesses 1,000 tablets, capsules or other dosage units, or the equivalent quantity, or more of methaqualone, or any mixture containing such substance, shall be guilty of a felony which felony shall be known as 'trafficking in methaqualone' and if the quantity of such substance or mixture involved:

- a. Is 1,000 or more dosage units, or equivalent quantity, but less than 5,000 dosage units, or equivalent quantity, such person shall be punished as a Class G felon and shall be sentenced to a minimum term of 35 months and a maximum term of 42 months in the State's prison and shall be fined not less than twenty-five thousand dollars (\$25,000);
- b. Is 5,000 or more dosage units, or equivalent quantity, but less than 10,000 dosage units, or equivalent quantity, such person shall be punished as a Class F felon and shall be sentenced to a minimum term of 70 months and a maximum term of 84 months in the State's prison and shall be fined not less than fifty thousand dollars (\$50,000);
- c. Is 10,000 or more dosage units, or equivalent quantity, such person shall be punished as a Class D felon and shall be sentenced to a minimum term of 175 months and a maximum term of 219 months in the State's prison and shall be fined not less than two hundred thousand dollars (\$200,000).

- (3) Any person who sells, manufactures, delivers, transports, or possesses 28 grams or more of cocaine and any salt, isomer, salts of isomers, compound, derivative, or preparation thereof, or any coca leaves and any salt, isomer, salts of isomers, compound, derivative, or preparation of coca leaves, and any salt, isomer, salts of isomers, compound, derivative or preparation thereof which is chemically equivalent or identical with any of these substances (except decocainized coca leaves or any extraction of coca leaves which does not contain cocaine) or any mixture

containing such substances, shall be guilty of a felony, which felony shall be known as 'trafficking in cocaine' and if the quantity of such substance or mixture involved:

- a. Is 28 grams or more, but less than 200 grams, such person shall be punished as a Class G felon and shall be sentenced to a minimum term of 35 months and a maximum term of 42 months in the State's prison and shall be fined not less than fifty thousand dollars (\$50,000);
 - b. Is 200 grams or more, but less than 400 grams, such person shall be punished as a Class F felon and shall be sentenced to a minimum term of 70 months and a maximum term of 84 months in the State's prison and shall be fined not less than one hundred thousand dollars (\$100,000);
 - c. Is 400 grams or more, such person shall be punished as a Class D felon and shall be sentenced to a minimum term of 175 months and a maximum term of 219 months in the State's prison and shall be fined at least two hundred fifty thousand dollars (\$250,000).
- (3a) Any person who sells, manufactures, delivers, transports, or possesses 1,000 tablets, capsules or other dosage units, or the equivalent quantity, or more of amphetamine, its salts, optical isomers, and salts of its optical isomers or any mixture containing such substance, shall be guilty of a felony which felony shall be known as 'trafficking in amphetamine' and if the quantity of such substance or mixture involved:
- a. Is 1,000 or more dosage units, or equivalent quantity, but less than 5,000 dosage units, or equivalent quantity, such person shall be punished as a Class G felon and shall be sentenced to a minimum term of 35 months and a maximum term of 42 months in the State's prison and shall be fined not less than twenty-five thousand dollars (\$25,000);
 - b. Is 5,000 or more dosage units, or equivalent quantity, but less than 10,000 dosage units, or equivalent quantity, such person shall be punished as a Class F felon and shall be sentenced to a minimum term of 70 months and a maximum term of 84 months in the State's prison and shall be fined not less than fifty thousand dollars (\$50,000);
 - c. Is 10,000 or more dosage units, or equivalent quantity, such person shall be punished as a Class D felon and shall be sentenced to a minimum term of 175 months and a maximum term of 219 months in the State's prison and shall be fined not less than two hundred thousand dollars (\$200,000).
- (3b) Any person who sells, manufactures, delivers, transports, or possesses 28 grams or more of methamphetamine shall be guilty of a felony which felony shall be known as 'trafficking in methamphetamine' and if the quantity of such substance or mixture involved:
- a. Is 28 grams or more, but less than 200 grams, such person shall be punished as a Class G felon and shall be sentenced to

- a minimum term of 35 months and a maximum term of 42 months in the State's prison and shall be fined not less than fifty thousand dollars (\$50,000);
- b. Is 200 grams or more, but less than 400 grams, such person shall be punished as a Class F felon and shall be sentenced to a minimum term of 70 months and a maximum term of 84 months in the State's prison and shall be fined not less than one hundred thousand dollars (\$100,000);
 - c. Is 400 grams or more, such person shall be punished as a Class D felon and shall be sentenced to a minimum term of 175 months and a maximum term of 219 months in the State's prison and shall be fined at least two hundred fifty thousand dollars (\$250,000).
- (4) Any person who sells, manufactures, delivers, transports, or possesses four grams or more of opium or opiate, or any salt, compound, derivative, or preparation of opium or opiate (except apomorphine, nalbuphine, analoxone and naltrexone and their respective salts), including heroin, or any mixture containing such substance, shall be guilty of a felony which felony shall be known as 'trafficking in opium or heroin' and if the quantity of such controlled substance or mixture involved:
- a. Is four grams or more, but less than 14 grams, such person shall be punished as a Class F felon and shall be sentenced to a minimum term of 70 months and a maximum term of 84 months in the State's prison and shall be fined not less than fifty thousand dollars (\$50,000);
 - b. Is 14 grams or more, but less than 28 grams, such person shall be punished as a Class E felon and shall be sentenced to a minimum term of 90 months and a maximum term of 117 months in the State's prison and shall be fined not less than one hundred thousand dollars (\$100,000);
 - c. Is 28 grams or more, such person shall be punished as a Class C felon and shall be sentenced to a minimum term of 225 months and a maximum term of 279 months in the State's prison and shall be fined not less than five hundred thousand dollars (\$500,000).
- (4a) Any person who sells, manufactures, delivers, transports, or possesses 100 tablets, capsules, or other dosage units, or the equivalent quantity, or more, of Lysergic Acid Diethylamide, or any mixture containing such substance, shall be guilty of a felony, which felony shall be known as 'trafficking in Lysergic Acid Diethylamide'. If the quantity of such substance or mixture involved:
- a. Is 100 or more dosage units, or equivalent quantity, but less than 500 dosage units, or equivalent quantity, such person shall be punished as a Class G felon and shall be sentenced to a minimum term of 35 months and a maximum term of 42 months in the State's prison and shall be fined not less than twenty-five thousand dollars (\$25,000);

- b. Is 500 or more dosage units, or equivalent quantity, but less than 1,000 dosage units, or equivalent quantity, such person shall be punished as a Class F felon and shall be sentenced to a minimum term of 70 months and a maximum term of 84 months in the State's prison and shall be fined not less than fifty thousand dollars (\$50,000);
 - c. Is 1,000 or more dosage units, or equivalent quantity, such person shall be punished as a Class D felon and shall be sentenced to a minimum term of 175 months and a maximum term of 219 months in the State's prison and shall be fined not less than two hundred thousand dollars (\$200,000).
- (5) Except as provided in this subdivision, a person being sentenced under this subsection may not receive a suspended sentence or be placed on probation. The sentencing judge may reduce the fine, or impose a prison term less than the applicable minimum prison term provided by this subsection, or suspend the prison term imposed and place a person on probation when such person has, to the best of his knowledge, provided substantial assistance in the identification, arrest, or conviction of any accomplices, accessories, co-conspirators, or principals if the sentencing judge enters in the record a finding that the person to be sentenced has rendered such substantial assistance.
- (6) Sentences imposed pursuant to this subsection shall run consecutively with and shall commence at the expiration of any sentence being served by the person sentenced hereunder."
- (jj) This section becomes effective December 1, 1997, and applies to offenses committed on or after that date.

Requested by: Representatives Jarrell, Sutton, Justus, Kiser, Thompson, Hill, Senators Gulley, Ballance, Rand

LIMIT, MODIFY, AND ENHANCE ATTEMPTING TO ELUDE ARREST STATUTES

Section 19.26. (a) Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-141.5. *Speeding to elude arrest.*

(a) It shall be unlawful for any person to operate a motor vehicle on a street, highway, or public vehicular area while fleeing or attempting to elude a law enforcement officer who is in the lawful performance of his duties. Except as provided in subsection (b) of this section, violation of this section shall be a Class 1 misdemeanor.

(b) If two or more of the following aggravating factors are present at the time the violation occurs, violation of this section shall be a Class H felony.

(1) Speeding in excess of 15 miles per hour over the legal speed limit.

(2) Gross impairment of the person's faculties while driving due to:

a. Consumption of an impairing substance; or

b. A blood alcohol concentration of 0.14 or more within a relevant time after the driving.

(3) Reckless driving as proscribed by G.S. 20-140.

(4) Negligent driving leading to an accident causing:

- a. Property damage in excess of one thousand dollars (\$1,000);
or
- b. Personal injury.

(5) Driving when the person's drivers license is revoked.

(6) Driving in excess of the posted speed limit, during the days and hours when the posted limit is in effect, on school property or in an area designated as a school zone pursuant to G.S. 20-141.1, or in a highway work zone as defined in G.S. 20-141(j2).

(7) Passing a stopped school bus as proscribed by G.S. 20-217.

(8) Driving with a child under 12 years of age in the vehicle.

(c) Whenever evidence is presented in any court or administrative hearing of the fact that a vehicle was operated in violation of this section, it shall be prima facie evidence that the vehicle was operated by the person in whose name the vehicle was registered at the time of the violation, according to the Division's records. If the vehicle is rented, then proof of that rental shall be prima facie evidence that the vehicle was operated by the renter of the vehicle at the time of the violation.

(d) The Division shall suspend, for up to one year, the drivers license of any person convicted of a misdemeanor under this section. The Division shall revoke, for two years, the drivers license of any person convicted of a felony under this section if the person was convicted on the basis of the presence of two of the aggravating factors listed in subsection (b) of this section. The Division shall revoke, for three years, the drivers license of any person convicted of a felony under this section if the person was convicted on the basis of the presence of three or more aggravating factors listed in subsection (b) of this section. In the case of a first felony conviction under this section where only two aggravating factors were present, the licensee may apply to the sentencing court for a limited driving privilege after a period of 12 months of revocation, provided the operator's license has not also been revoked or suspended under any other provision of law. A limited driving privilege issued under this subsection shall be valid for the period of revocation remaining in the same manner and under the terms and conditions prescribed in G.S. 20-16.1(b). If the person's license is revoked under any other statute, the limited driving privilege issued pursuant to this subsection is invalid.

(e) When the probable cause of the law enforcement officer is based on the prima facie evidence rule set forth in subsection (c) above, the officer shall make a reasonable effort to contact the registered owner of the vehicle prior to initiating criminal process.

(f) Each law enforcement agency shall adopt a policy applicable to the pursuit of fleeing or eluding motorists. Each policy adopted pursuant to this subsection shall specifically include factors to be considered by an officer in determining when it is advisable to break off a chase to stop and apprehend a suspect. The Attorney General shall develop a model policy or policies to be considered for use by law enforcement agencies."

(b) G.S. 20-141(j) and G.S. 20-17(a)(10) are repealed.

(c) G.S. 20-179(d) reads as rewritten:

"(d) Aggravating Factors to Be Weighed. -- The judge must determine before sentencing under subsection (f) whether any of the aggravating

factors listed below apply to the defendant. The judge must weigh the seriousness of each aggravating factor in the light of the particular circumstances of the case. The factors are:

- (1) Gross impairment of the defendant's faculties while driving or an alcohol concentration of 0.16 or more within a relevant time after the driving.
- (2) Especially reckless or dangerous driving.
- (3) Negligent driving that led to a reportable accident.
- (4) Driving by the defendant while his driver's license was revoked.
- (5) Two or more prior convictions of a motor vehicle offense not involving impaired driving for which at least three points are assigned under G.S. 20-16 or for which the convicted person's license is subject to revocation, if the convictions occurred within five years of the date of the offense for which the defendant is being sentenced, or one or more prior convictions of an offense involving impaired driving that occurred more than seven years before the date of the offense for which the defendant is being sentenced.
- (6) Conviction under ~~G.S. 20-141(i)~~ G.S. 20-141.5 of speeding by the defendant while fleeing or attempting to elude apprehension.
- (7) Conviction under G.S. 20-141 of speeding by the defendant by at least 30 miles per hour over the legal limit.
- (8) Passing a stopped school bus in violation of G.S. 20-217.
- (9) Any other factor that aggravates the seriousness of the offense.

Except for the factor in subdivision (5) the conduct constituting the aggravating factor must occur during the same transaction or occurrence as the impaired driving offense."

(d) G.S. 58-36-75(c) reads as rewritten:

"(c) The subclassification plan promulgated pursuant to G.S. 58-36-65(b) shall provide for facility recoupment surcharges pursuant to G.S. 58-37-40(f) and G.S. 58-37-75, in addition to premium surcharges, for convictions for the following moving traffic violations:

General Statute	Description of Offense
20-12.1	Being impaired while accompanying a permittee who is learning to drive
20-28	Driving while license is suspended or revoked
20-138.1	Driving a vehicle while impaired
20-138.2	Driving a commercial vehicle while impaired
20-138.3	Driving by provisional licensee after consuming alcohol or drugs
20-140(a)	Driving carelessly and heedlessly in willful or wanton disregard of the rights of others
20-140(b)	Driving without due caution in a manner so as to endanger other people or property

- 20-141(a) Only driving at least 11 miles per hour over the posted speed limit
- ~~20-141(j) Driving in excess of 55 mph and at least 15 mph over legal limit, while fleeing or attempting to elude arrest by a law enforcement officer~~
- 20-141(j1) Driving more than 15 mph over legal limit
- 20-141.1 Speeding in a school zone
- 20-141.3(a) Engaging in prearranged speed competition with another motor vehicle
- 20-141.3(b) Willfully engaging in speed competition with another motor vehicle (not prearranged)
- 20-141.3(c) Allowing or authorizing others to use one's motor vehicle in prearranged speed competition or placing or receiving a bet or wager on a prearranged speed competition
- 20-141.4(a1) Death by vehicle (unintentionally causing death of another while engaged in impaired driving)
- 20-141.4(a2) Death by vehicle (unintentionally causing death of another as a result of a violation of motor vehicle law intended to regulate traffic or used to control operation of a vehicle)
- 20-141.5 Speeding while fleeing or attempting to elude arrest
- 20-166(a) Failure to stop by driver who knew or should have known he was involved in accident and that accident caused death or injury to any person
- 20-166(c) Failure of driver involved in accident causing property damage or personal injury or death (if driver did not know of injury or death) to stop at scene of accident
- 20-175.2 Failure to yield right-of-way to blind person at crossings, intersections, and traffic control signal points
- 20-217 Failure to stop and remain stopped when approaching a stopped school bus engaged in receiving or discharging passengers and while bus has mechanical stop signal displayed
- 14-18 Voluntary manslaughter
- 14-18 Involuntary manslaughter".
- (e) G.S. 143-116.8(b) reads as rewritten:

- "(b) (1) It shall be unlawful for a person to operate a vehicle in the State parks and forests road system at a speed in excess of twenty-five miles per hour (25 mph). When the Secretary of Environment, Health, and Natural Resources determines that this speed is greater than reasonable and safe under the conditions found to exist in the State parks and forests road system, the Secretary may establish a lower reasonable and safe speed limit. No speed limit established by the Secretary pursuant to this provision shall be effective until posted in the part of the system sought to be affected.
- (2) Any person convicted of violating this subsection by operating a vehicle on the State parks and forests road system ~~in excess of twenty-five miles per hour (25 mph) and at least fifteen miles per hour (15 mph) over the legal limit~~ while fleeing or attempting to elude arrest or apprehension by a law enforcement officer with authority to enforce the motor vehicle laws, shall be punished as provided in G.S. 20-141(j), G.S. 20-141.5.
- (3) For the purposes of enforcement and administration of Chapter 20, the speed limits stated and authorized to be adopted by this section are speed limits under Chapter 20.
- (4) The Secretary may designate any part of the State parks and forests road system for one-way traffic and shall erect appropriate signs giving notice thereof. It shall be a violation of G.S. 20-165.1 for any person to willfully drive or operate any vehicle on any part of the State parks and forests road system so designated except in the direction indicated.
- (5) The Secretary shall have power, equal to the power of local authorities under G.S. 20-158 and G.S. 20-158.1, to place vehicle control signs and signals and yield-right-of-way signs in the State parks and forests road system; the Secretary also shall have power to post such other signs and markers and mark the roads in accordance with Chapter 20 as the Secretary may determine appropriate for highway safety and traffic control. The failure of any vehicle driver to obey any vehicle control sign or signal, or any yield-right-of-way sign placed under the authority of this section in the State parks and forests road system shall be an infraction and shall be punished as provided in G.S. 20-176."

(f) This section becomes effective December 1, 1997, and applies to offenses committed on or after that date.

Requested by: Representatives Morgan, Justus, Kiser, Thompson
INTIMIDATION TO INFLUENCE LEGISLATOR

Section 19.27. (a) G.S. 120-86 reads as rewritten:

"§ 120-86. *Bribery, etc.*

(a) No person shall offer or give to a legislator or a member of a legislator's immediate household, or to a business with which he the legislator is associated, and no legislator shall solicit or receive, anything of

monetary value, including a gift, favor or service or a promise of future employment, based on any understanding that ~~such the~~ legislator's vote, official actions or judgment would be influenced thereby, or where it could reasonably be inferred that the thing of value would influence the legislator in the discharge of ~~his the~~ legislator's duties.

(b) It shall be unlawful for the partner, client, customer, or employer of a legislator or the agent of that partner, client, customer, or ~~employer to threaten economically, directly or indirectly, employer, directly or indirectly, to threaten economically~~ that legislator with the intent to influence the legislator in the discharge of ~~his legislative~~ the legislator's duties.

(b1) It shall be unlawful for any person, directly or indirectly, to threaten economically another person in order to compel the threatened person to attempt to influence a legislator in the discharge of the legislator's duties.

(c) It shall be unethical for a legislator to contact the partner, client, customer, or employer of another legislator if the purpose of the contact is to cause the partner, client, customer, or ~~employer to threaten economically, directly or indirectly, employer, directly or indirectly, to threaten economically~~ that legislator with the intent to influence that legislator in the discharge of ~~his legislative~~ the legislator's duties.

(d) For the purposes of this section, the term 'legislator' also includes any person who has been elected or appointed to the General Assembly but who has not yet taken the oath of office.

(e) Violation of subsection ~~(a) or (b)~~ (a), (b), or (b1) is a Class F felony. Violation of subsection (c) is not a crime but is punishable under G.S. 120-103."

(b) This section becomes effective December 1, 1997, and applies to offenses committed on or after that date.

Requested by: Representatives Justus, Kiser, Thompson
**DIRECT CRIMINAL JUSTICE EDUCATION AND TRAINING
 STANDARDS COMMISSION TO REVISE HIRING AND RECORD-
 KEEPING PROCEDURES FOR EMPLOYEES OF DEPARTMENT OF
 CORRECTION**

Section 19.28. No later than June 30, 1998, the Criminal Justice Education and Training Standards Commission shall reestablish the hiring and record-keeping procedures for the employment of certified positions in the Department of Correction.

PART XX. DEPARTMENT OF JUSTICE

Requested by: Senators Gulley, Ballance, Rand
DEPARTMENT OF JUSTICE SALARY ADJUSTMENTS

Section 20. Of the funds appropriated in this act to the Department of Justice, the sum of ninety-three thousand four hundred fifty-three dollars (\$93,453) for the 1997-98 fiscal year and the sum of ninety-three thousand four hundred fifty-three dollars (\$93,453) for the 1998-99 fiscal year may be used to increase the salaries of attorneys who are eligible for salary adjustments based upon outstanding job performance for the preceding year.

Requested by: Senator Gulley

SBI FUNDS/SPENDING PRIORITIES

Section 20.1. Of the funds appropriated in this act to the Department of Justice, State Bureau of Investigation, for the 1997-99 biennium for overtime payments, the first priority for use of the funds by the Department shall be:

- (1) To make overtime payments to SBI agents in the Field Investigations Division; and
- (2) To make overtime payments to supervisory personnel receiving overtime payments as of June 30, 1997, up to a maximum of five thousand two hundred dollars (\$5,200) annually per individual.

Requested by: Senator Gulley, Representatives Justus, Kiser, Thompson

SBI USE OF COURT-ORDERED REIMBURSEMENT FUNDS

Section 20.2. The State Bureau of Investigation (SBI) may use funds available from court-ordered reimbursement in undercover drug operations.

Requested by: Senator Gulley, Representatives Justus, Kiser, Thompson

PRIVATE PROTECTIVE SERVICES AND ALARM SYSTEMS LICENSING BOARDS PAY FOR USE OF STATE FACILITIES AND SERVICES

Section 20.3. The Private Protective Services and Alarm Systems Licensing Boards shall pay the appropriate State agency for the use of physical facilities and services provided to those boards by the State.

Requested by: Senator Gulley, Representatives Justus, Kiser, Thompson

LIMITS ON COMPUTER SYSTEM UPGRADE

Section 20.4. Any proposed increase in mainframe computer capacity or system upgrade for the Judicial Department, the Department of Correction, the Department of Justice, or the Department of Crime Control and Public Safety, to be funded from the Continuation Budget, shall be reported to the Joint Legislative Commission on Governmental Operations, to the Chairs of the Senate and House of Representatives Appropriations Committees, and to the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety before the department enters into any contractual agreement. This report is to be made jointly by the Information Resource Management Commission, the Office of State Budget and Management, and the requesting department.

Requested by: Senator Gulley, Representatives Justus, Kiser, Thompson

CERTAIN LITIGATION EXPENSES TO BE PAID BY CLIENTS

Section 20.5. Client departments, agencies, and boards shall reimburse the Department of Justice for reasonable court fees, attorney travel and subsistence costs, and other costs directly related to litigation in which the Department of Justice is representing the department, agency, or board.

Requested by: Senator Gulley, Representatives Justus, Kiser, Thompson

REIMBURSEMENT FOR UNC BOARD OF GOVERNORS LEGAL REPRESENTATION

Section 20.6. The Department of Justice shall be reimbursed by the Board of Governors of The University of North Carolina for two Attorney III positions to provide legal representation to The University of North Carolina system.

Requested by: Senator Gulley, Representatives Justus, Kiser, Thompson

USE OF SEIZED AND FORFEITED PROPERTY TRANSFERRED TO STATE LAW ENFORCEMENT AGENCIES BY THE FEDERAL GOVERNMENT

Section 20.7. (a) Assets transferred to the Department of Justice during the 1997-99 biennium pursuant to 19 U.S.C. § 1616a shall be credited to the budget of the Department and shall result in an increase of law enforcement resources for the Department. Assets transferred to the Department of Crime Control and Public Safety during the 1997-99 biennium pursuant to 19 U.S.C. § 1616a shall be credited to the budget of the Department and shall result in an increase of law enforcement resources for the Department. The Departments of Justice and Crime Control and Public Safety shall report to the Joint Legislative Commission on Governmental Operations upon receipt of the assets and, before using the assets, shall report on the intended use of the assets and the departmental priorities on which the assets may be expended.

The General Assembly finds that the use of assets transferred pursuant to 19 U.S.C. § 1616a for new personnel positions, new projects, the acquisition of real property, repair of buildings where the repair includes structural change, and construction of or additions to buildings may result in additional expenses for the State in future fiscal periods. Therefore, the Department of Justice and the Department of Crime Control and Public Safety are prohibited from using these assets for such purposes without the prior approval of the General Assembly, except during the 1997-98 fiscal year, the Department of Justice may:

- (1) Use an amount not to exceed the sum of twenty-five thousand dollars (\$25,000) of the funds to extend the lease of space in the Town of Salemburg for SBI training; and
 - (2) Use an amount not to exceed fifty thousand dollars (\$50,000) of the funds to lease space for its technical operations unit, storage of its equipment and vehicles, and command post vehicle.
- (b) Nothing in this section prohibits North Carolina law enforcement agencies from receiving funds from the United States Department of Justice pursuant to 19 U.S.C. § 1616a.

Requested by: Senator Gulley, Representatives Justus, Kiser, Thompson

DEPARTMENT OF JUSTICE RECORD CHECKS FUNDS AND REPORTS

Section 20.8. (a) The Department of Justice may use, for each year of the 1997-99 biennium, the sum of up to two hundred ten thousand five hundred sixty-three dollars (\$210,563) to add up to five positions in the State Bureau of Investigation to facilitate record checks for concealed

weapons permits. The Office of State Budget and Management may adjust the allotment of appropriations to the Department of Justice until receipts are realized. The Department of Justice may fund one and one-half positions per 10,000 record checks for concealed weapons permits. If the total number of annual criminal record checks performed by the State Bureau of Investigation falls below the level of 5,000 checks, the number of positions shall be reduced to one.

(b) The Department of Justice shall report by January 15 each year to the Joint Legislative Commission on Governmental Operations, the Chairs of the Senate and House Appropriations Committees, and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety on the receipts, costs for, and number of criminal record checks performed in connection with applications for concealed weapons permits. The report by the Department of Justice shall also include information on the number of applications received and approved for firearms safety courses.

Requested by: Senators Plyler, Perdue, Odom, Representatives Holmes, Esposito, Creech, Crawford

SALARY EQUITY FOR SBI LAW ENFORCEMENT

Section 20.9. (a) Of the funds appropriated in this act to the Department of Justice for the State Bureau of Investigation, the sum of two million seven hundred thousand dollars (\$2,700,000) for the 1997-98 fiscal year and the sum of two million seven hundred thousand dollars (\$2,700,000) for the 1998-99 fiscal year shall be used to adjust the salaries of law enforcement positions in the State Bureau of Investigation. These adjustments shall be based on factors, such as employee salary, position class title, position grade, and credible years of sworn service with the State Bureau of Investigation. No salary adjustment shall result in an increase beyond the maximum salary set for an officer's pay grade. If an officer's salary is near or at the top of the officer's pay grade, the officer shall be eligible to receive a salary adjustment up to the top of the officer's pay grade. If an officer is at the top of the officer's pay grade, then the officer is not eligible to receive a salary adjustment. Sworn officers holding the following management positions are not eligible to receive the salary adjustment: SBI Director, SBI Assistant Directors of Support Services, SBI Assistant Director, SBI Assistant Directors of Field Services, SBI Assistant Director of Crime Laboratory, Deputy Director of Medicaid Fraud.

(b) Within 30 days of any salary adjustment made pursuant to this section, the Department shall report its actions to the Chairs of the House and Senate Appropriations Committees.

Requested by: Senators Gulley, Ballance, Rand, Representatives Justus, Kiser, Thompson, Hill

INCREASE THE NUMBER OF FICTITIOUS LICENSES AND REGISTRATION PLATES AUTHORIZED FOR PUBLICLY OWNED MOTOR VEHICLES AND REMOVE THE SUNSET ON PRIOR INCREASE ON NUMBER OF PLATES

Section 20.10. G.S. 20-39(h) reads as rewritten:

"(h) The Commissioner, notwithstanding any other provision of this Chapter, may lawfully and to the extent necessary, provide local, State or federal law-enforcement officers on special undercover assignments with motor vehicle drivers licenses and motor vehicle registration plates under assumed names using false or fictitious addresses. Such registration plates shall only be used on publicly owned or leased vehicles. Requests for these licenses and registration plates shall be made to the Commissioner by the head of the local, State or federal law-enforcement agency and be accompanied by approval in writing from the Director of the State Bureau of Investigation upon a specific finding by the Director that the request is justified and necessary. The Director shall keep a record of all such licenses, registration plates, assumed names, false or fictitious addresses, and law-enforcement officers using the licenses or registration plates, and shall request the immediate return of any license or registration plate that is no longer necessary. Licenses and registration plates provided under this subsection shall expire six months after initial issuance or subsequent validation after the request for extension has been approved in writing by the Director of the State Bureau of Investigation. The head of the local, State or federal law-enforcement agency shall be responsible for the use of the licenses and registration plates and shall return them immediately to the Commissioner for cancellation upon either (i) their expiration, (ii) request of the Director of the State Bureau of Investigation, or (iii) request of the Commissioner. Failure to return a license or registration plates issued pursuant to this subsection shall be punished as a Class 2 misdemeanor. At no time shall the number of valid licenses and registration plates issued under this act exceed ~~one hundred~~, one hundred twenty-five, and those issued shall be strictly monitored by the Director. All of the private registration plates issued to special agents of the State Bureau of Investigation under the Department of Justice and to alcohol law enforcement agents under the Department of Crime Control and Public Safety, pursuant to G.S. 14-250, may be fictitious plates and shall not be counted in the total number of fictitious plates authorized by this subsection."

(b) Subsection (c) of Section 23 of Chapter 18 of the Session Laws of the 1996 Second Extra Session is repealed.

(c) This section becomes effective June 29, 1997.

Requested by: Senators Gulley, Ballance, Rand, Representatives Justus, Kiser, Thompson, Hill

**SHERIFF EDUCATION AND TRAINING STANDARDS COMMISSION
TO ESTABLISH MINIMUM EMPLOYMENT, TRAINING, AND
RETENTION STANDARDS FOR TELECOMMUNICATORS**

Section 20.11. (a) Of the funds appropriated in this act to the Department of Justice for the 1997-99 biennium, the sum of one hundred one thousand six hundred thirty-five dollars (\$101,635) for the 1997-98 fiscal year and the sum of one hundred thirty-two thousand two hundred thirty-one dollars (\$132,231) for the 1998-99 fiscal year shall be used to fund a criminal justice research associate, a processing assistant, a criminal

justice instructor-coordinator, and related expenses to implement this section.

(b) G.S. 17E-2(3) reads as rewritten:

"(3) 'Justice officer' means a person who, through the special trust and confidence of the sheriff of the county, has taken the oath of office prescribed by Chapter 11 of these statutes as a peace officer in the office of a sheriff, or who has been duly appointed as a detention officer by the sheriff. The term includes 'deputy sheriffs' and 'special deputy sheriffs' but does not include clerical and support personnel not required to take an oath. The term 'special deputy' means a person who, through appointment by the sheriff, becomes an unpaid criminal justice officer to perform a specific act directed to the person by the sheriff. Justice officer shall also mean the administrator and the other custodial personnel of district confinement facilities as defined in G.S. 153A-219. Nothing in this Chapter shall transfer any supervisory or administrative control of employees of district confinement facilities to the office of the sheriff. means:

- a. A person who, through the special trust and confidence of the sheriff, has taken the oath of office prescribed by Chapter 11 of the General Statutes as a peace officer in the office of the sheriff. This term includes 'deputy sheriffs', 'reserve deputy sheriffs', and 'special deputy sheriffs', but does not include clerical and support personnel not required to take an oath. The term 'special deputy' means a person who, through appointment by the sheriff, becomes an unpaid criminal justice officer to perform a specific act directed by the sheriff; or
- b. A person who, through the special trust and confidence of the sheriff, has been appointed as a detention officer by the sheriff; or
- c. A person who is either the administrator or other custodial personnel of district confinement facilities as defined in G.S. 153A-219; however, nothing in this Chapter transfers any supervisory or administrative control over employees of district confinement facilities to the office of the sheriff; or
- d. A person who, through the special trust and confidence of the sheriff, is under the direct supervision and control of the sheriff and serves as a telecommunicator, or who is presented to the Commission for appointment as a telecommunicator by an employing entity other than the sheriff for the purpose of obtaining certification from the Commission as a telecommunicator."

(c) G.S. 17E-7 reads as rewritten:

"§ 17E-7. Required standards.

(a) Justice officers officers, other than those set forth in subsection (c1) of this section, shall not be required to meet any requirements of subsections (b) and (c) of this section as a condition of continued employment, nor shall failure of a justice officer to fulfill such requirements make him ineligible

for any promotional examination for which he is otherwise eligible if the officer held an appointment prior to July 1, 1983, and is a sworn law-enforcement officer with power of arrest. The legislature finds, and it is hereby declared to be the policy of this Chapter, that such officers have satisfied such requirements by their experience. It is the intent of the Chapter that all justice officers employed at the entry level after the Commission has adopted the required standards shall meet the requirements of this Chapter. All justice officers who are exempted from the required entry level standards by this subsection are subject to the requirements of subsections (b) and (c) of this section as well as the requirements of G.S. 17E-4(a) in order to retain certification.

(b) The Commission shall provide, by regulation, that no person may be appointed as a justice officer at entry level, except on a temporary or probationary basis, unless such person has satisfactorily completed an initial preparatory program of training at a school certified by the Commission or has been exempted from that requirement by the Commission pursuant to this Chapter. Upon separation of a justice officer from a sheriff's department within the temporary or probationary period of appointment, the probationary certification shall be terminated by the Commission. Upon the reappointment to the same department or appointment to another department of an officer who has separated from a department within the probationary period, the officer shall be charged with the amount of time served during his initial appointment and allowed the remainder of the probationary period to complete the basic training requirement. Upon the reappointment to the same department or appointment to another department of an officer who has separated from a department within the probationary period and who has remained out of service for more than one year from the date of separation, the officer shall be allowed another probationary period to complete such training as the Commission shall require by rule for an officer returning to service.

(c) In addition to the requirements of subsection (b) of this section, the Commission, by rules and regulations, may fix other qualifications for the employment and retention of justice officers including minimum age, education, physical and mental standards, citizenship, good moral character, experience, and such other matters as relate to the competence and reliability of persons to assume and discharge the responsibilities of the office, and the Commission shall prescribe the means for presenting evidence of fulfillment of these requirements.

Where minimum educational standards are not met, yet the individual shows potential and a willingness to achieve the standards by extra study, they may be waived by the Commission for the reasonable amount of time it will take to achieve the standards required. Upon petition from a sheriff, the Commission may grant a waiver of any provisions of this section (17E-7) for any justice officer serving that sheriff.

(c1) Any justice officer appointed as a telecommunicator at the entry level after March 1, 1998, shall meet all requirements of this Chapter. Any person employed in the capacity of a telecommunicator as defined by the Commission on or before March 1, 1998, shall not be required to meet any entry-level requirements as a condition of continued employment but shall be

reported to the Commission for certification. All justice officers who are exempted from the required entry-level standards by this subsection are subject to the requirements of subsections (b) and (c) of this section as well as the requirements of G.S. 17E-4(a) in order to retain certification.

(d) The Commission may issue a certificate evidencing satisfaction of the requirements of subsections (b) and (c) (b), (c), and (c1) of this section to any applicant who presents such evidence as may be required by its rules and regulations of satisfactory completion of a program or course of instruction in another jurisdiction."

(d) Any entity, other than a sheriff's office, that employs telecommunicators is not required to submit telecommunicators under its employment for certification pursuant to Chapter 17E of the General Statutes and is not subject to criminal or civil liability if it does not do so.

Requested by: Representatives Preston, Justus, Kiser, Thompson
DEPARTMENT OF JUSTICE TO PROVIDE TRAINING TO STATE AND LOCAL LAW ENFORCEMENT OFFICERS IN THE IDENTIFICATION OF ACCIDENT-TRAUMA VICTIMS IN ORDER TO FACILITATE TIMELY IDENTIFICATION OF POTENTIAL ORGAN AND TISSUE DONORS AND TO PROVIDE FOR THE IDENTIFICATION OF ACCIDENT-TRAUMA VICTIMS

Section 20.12. (a) Of the funds appropriated in this act to the Department of Justice for the 1997-98 fiscal year, the sum of twenty-five thousand dollars (\$25,000) shall be used by the North Carolina Criminal Justice Education and Standards Training Commission, the North Carolina Sheriffs' Education and Training Standards Commission, and the North Carolina Justice Academy to provide for the training of State and local law enforcement officers in the timely identification of accident-trauma victims in order to facilitate the identification of potential organ and tissue donors.

(b) Chapter 90 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 35.

"Accident-Trauma Victim Identification.

"§ 90-600. Short title.

This Article shall be known and may be cited as the Carolyn Sonzogni Act.

"§ 90-601. Purpose.

The identification of accident-trauma victims is crucial to the timely notification of the next of kin of accident-trauma victims and to the recovery of organs and tissues for organ transplants. In recognition of these facts, it is the policy of this State and the purpose of this act to provide for the timely identification of accident-trauma victims by law enforcement, fire, emergency, rescue, and hospital personnel.

"§ 90-602. Routine search for donor information.

(a) The following persons may make a reasonable search for a document of gift or other information identifying the bearer as an organ donor or as an individual who has refused to make an anatomical gift:

- (1) A law enforcement officer, firefighter, paramedic, or other official emergency rescuer finding an individual who the searcher believes is near death; and
- (2) A hospital, upon the admission of an individual at or near the time of death, if there is not immediately available any other source of that information.

(b) Any law enforcement officer or other person listed in subsection (a) of this section may conduct an administrative search of the accident-trauma victim's Division of Motor Vehicles driver record to determine the individual's authorization for organ donation or refusal of organ donation.

(c) A physical search pursuant to subsection (a) of this section may be conducted at or near the time of death or hospital admission and shall be limited to those personal effects of the individual where a drivers license reasonably may be stored. Any information, document, tangible objects, or other items discovered during the search shall be used solely for the purpose of ascertaining the individual's identity, notifying the individual's next of kin, and determining whether the individual intends to make an anatomical gift, and in no event shall any such discovered material be admissible in any subsequent criminal or civil proceeding, unless obtained pursuant to a lawful search on other grounds.

"§ 90-603. Timely notification of next of kin.

A State or local law enforcement officer shall make a reasonable effort to notify the next of kin of an accident-trauma victim if the individual is hospitalized or dead. Whenever possible, the notification should be delivered in person and without delay after ensuring positive identification. If appropriate under the circumstances, the notification may be given by telephone in accordance with State and local law enforcement departmental policies. In addition to the notification of next of kin made by law enforcement personnel, other emergency rescue or hospital personnel may contact the next of kin, or the nearest organ procurement organization, in order to expedite decision making with regard to potential organ and tissue recovery.

"§ 90-604. Use of body information tags.

(a) In order to provide the identifying information necessary to facilitate organ and tissue transplants, a body information tag shall be attached to or transmitted with the body of an accident-trauma victim by the following persons:

- (1) A law enforcement officer, firefighter, paramedic, or other official emergency rescuer who believes the seriously injured individual to be near death; and

- (2) Hospital personnel, after the individual has been pronounced dead.

(b) The body information tag shall include information identifying the accident-trauma victim, identifying whether the individual is an organ donor, and providing any information on the next of kin. The Division of Motor Vehicles shall be responsible for producing and distributing body information tags to all State and local law enforcement departments. In addition, the tags shall be distributed by the Division of Motor Vehicles to all State and local agencies employing firefighters, paramedics, and other emergency and rescue personnel."

Requested by: Representatives Justus, Kiser, Thompson

CRIMINAL JUSTICE INFORMATION NETWORK REPORT

Section 20.13. The Criminal Justice Information Network Governing Board created pursuant to Section 23.3 of Chapter 18 of the Session Laws of the 1996 Second Extra Session shall report by April 15, 1998, to the Chairs of the Senate and House Appropriations Committees, the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety, and the Fiscal Research Division of the General Assembly on:

- (1) The operations of the Board, including the Board's progress in developing data-sharing standards in cooperation with State and local agencies and the estimated time of completion of the standards;
- (2) The operating budget of the Board, the expenditures of the Board as of the date of the report, and the amount of funds in reserve for the operation of the Board;
- (3) A long-term strategic plan and cost analysis for statewide implementation of the Criminal Justice Information Network; and
- (4) The status of the implementation of the mobile data network system, including the amount of funds spent on the system as of the date of the report and the long-term costs of implementing the system statewide.

The Board shall make an interim report on these issues to the Chairs of the Senate and House Appropriations Committees, the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety, and the Fiscal Research Division of the General Assembly by November 1, 1997.

Requested by: Representatives Redwine, Justus, Kiser, Thompson, Hill, Senators Gulley, Ballance, Rand

ATTORNEY GENERAL OPINION REQUIRED FOR ALL STATE SETTLEMENTS

Section 20.14. (a) Chapter 114 of the General Statutes is amended by adding a new section to read:

"§ 114-2.4. Attorney General to render opinion on settlement agreements.

(a) The Attorney General shall review the terms of all proposed agreements entered into by the State or a State department, agency, institution, or officer to settle or resolve litigation or potential litigation, that involves the payment of public monies in the sum of seventy-five thousand dollars (\$75,000) or more. In order for such an agreement or contract to be effective against the State, the Attorney General shall submit to the State or the State department, agency, institution, or officer a written opinion regarding the terms of the proposed agreement and the advisability of entering into the agreement, prior to entering into the agreement. The written opinion required by this section shall be maintained in the official file of the final settlement agreement. The Attorney General by rule may delegate to a deputy or assistant Attorney General or to another subordinate the authority to approve settlement agreements.

(b) The Attorney General shall report to the Joint Legislative Commission on Governmental Operations on all agreements entered into by the State or a

State department, agency, institution, or officer to settle or resolve litigation or potential litigation, that involves the payment of public monies in the sum of seventy-five thousand dollars (\$75,000) or more."

(b) This section is effective when this act becomes law and applies to settlements entered into on or after that date.

Requested by: Senators Gulley, Ballance, Rand, Representatives Justus, Kiser, Thompson, Hill

STUDY FEE ADJUSTMENT FOR CRIMINAL RECORDS CHECKS

Section 20.15. The Office of State Budget and Management, in consultation with the Department of Justice, shall study the feasibility of adjusting the fees charged for criminal records checks conducted by the Division of Criminal Information of the Department of Justice as a result of the increase in receipts from criminal records checks during the 1996-97 fiscal year. The study shall include an assessment of the Division's operational, personnel, and overhead costs related to providing criminal records checks. The Office of State Budget and Management shall report its findings and recommendations to the Chairs of the Senate and House Appropriations Committees, the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety, and the Fiscal Research Division of the General Assembly on or before May 1, 1998.

PART XXI. DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY

Requested by: Senator Gulley, Representatives Justus, Kiser, Thompson

LEGISLATIVE REVIEW OF DRUG LAW ENFORCEMENT AND OTHER GRANTS

Section 21. (a) Section 1303(4) of the Omnibus Crime Control and Safe Streets Act of 1968 provides that the State application for Drug Law Enforcement Grants is subject to review by the State legislature or its designated body. Therefore, the Governor's Crime Commission of the Department of Crime Control and Public Safety shall report on the State application for grants under the State and Local Law Enforcement Assistance Act of 1986, Part M of the Omnibus Crime Control and Safe Streets Act of 1968 as enacted by Subtitle K of P.L. 99-570, the Anti-Drug Abuse Act of 1986, to the Senate and House Appropriations Subcommittees on Justice and Public Safety when the General Assembly is in session. When the General Assembly is not in session, the Governor's Crime Commission shall report on the State application to the Joint Legislative Commission on Governmental Operations.

(b) Unless a State statute provides a different forum for review, when a federal law or regulation provides that an individual State application for a grant shall be reviewed by the State legislature or its designated body and at the time of the review the General Assembly is not in session, that application shall be reviewed by the Joint Legislative Commission on Governmental Operations.

Requested by: Senator Gulley, Representatives Justus, Kiser, Thompson

VICTIMS ASSISTANCE NETWORK FUNDS

Section 21.1. Of the funds appropriated in this act to the Department of Crime Control and Public Safety, the sum of one hundred fifty thousand dollars (\$150,000) for the 1997-98 fiscal year and the sum of one hundred fifty thousand dollars (\$150,000) for the 1998-99 fiscal year shall be used to support the Victims Assistance Network. These funds shall be used by the Victims Assistance Network to perform the following functions under the direction of and as required by the Department of Crime Control and Public Safety:

- (1) Conduct surveys and gather data on crime victims and their needs;
- (2) Act as a clearinghouse for crime victims services;
- (3) Provide an automated crime victims bulletin board for subscribers;
- (4) Coordinate and support the activities of other crime victims advocacy groups;
- (5) Identify training needs of crime victims services providers and criminal justice personnel and coordinate training efforts for those persons; and
- (6) Provide other services as identified by the Governor's Crime Commission or the Department of Crime Control and Public Safety.

Requested by: Senator Gulley, Representatives Justus, Kiser, Thompson

REPORT ON COMMUNITY SERVICE WORKERS

Section 21.2. The Department of Crime Control and Public Safety shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division by March 1 and September 1 of each fiscal year of the 1997-99 biennium on the number of community service workers who were available during each month of the time period preceding that report to perform repairs and maintenance of the parks and when and where they were available.

Requested by: Senators Gulley, Ballance, Rand, Representatives Justus, Kiser, Thompson, Hill

REPORT ON CRIME VICTIMS COMPENSATION FUND

Section 21.3. The Department of Crime Control and Public Safety shall report to the Chairs of the Senate and House Appropriations Committees, the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety, and the Fiscal Research Division of the General Assembly by March 15 each year on the North Carolina Crime Victims Compensation Fund. The report shall include a statement regarding:

- (1) The administrative expenses of the Fund for the prior fiscal year and the current fiscal year on the date of the report;
- (2) The current unencumbered balance of the Fund;
- (3) The amount of funds carried over from the prior fiscal year;
- (4) The amount of funds received in the prior fiscal year from the Department of Correction and from the compensation fund established pursuant to the Victims Crime Act of 1984, 42 U.S.C. § 10601, et seq.;

- (5) The amount of funds expected to be received in the current fiscal year, as well as the amount actually received in the current fiscal year on the date of the report, from the Department of Correction and from the compensation fund established pursuant to the Victims Crime Act of 1984, 42 U.S.C. § 10601, et seq.; and
- (6) The total amount of funds paid to victims in the prior fiscal year and in the current fiscal year on the date of the report.

Requested by: Representatives Kiser, Justus, Thompson, Hill, Senators Gulley, Ballance, Rand

CORRECTIONS AND CRIME CONTROL OVERSIGHT COMMITTEE

Section 21.4. (a) Article 12J of Chapter 120 of the General Statutes reads as rewritten:

"ARTICLE 12J.

"Joint Legislative Corrections and Crime Control Oversight Committee.

"§ 120-70.93. Creation and membership of Joint Legislative Corrections and Crime Control Oversight Committee.

The Joint Legislative Corrections and Crime Control Oversight Committee is established. The Committee consists of 16 members as follows:

- (1) Eight members of the Senate appointed by the President Pro Tempore of the Senate, at least two of whom are members of the minority party; and
- (2) Eight members of the House of Representatives appointed by the Speaker of the House of Representatives, at least three of whom are members of the minority party.

Terms on the Committee are for two years and begin on the convening of the General Assembly in each odd-numbered year, except the terms of the initial members, which begin on appointment and end on the day of the convening of the 1995 General Assembly. Members may complete a term of service on the Committee even if they do not seek reelection or are not reelected to the General Assembly, but resignation or removal from service in the General Assembly constitutes resignation or removal from service on the Committee.

A member continues to serve until his successor is appointed. A vacancy shall be filled within 30 days by the officer who made the original appointment.

"§ 120-70.94. Purpose and powers of Committee.

(a) **The Joint Legislative Corrections and Crime Control Oversight Committee shall examine, on a continuing basis, the correctional system and law enforcement systems in North Carolina, in order to make ongoing recommendations to the General Assembly on ways to improve the correctional system and law enforcement systems and to assist that system in realizing its those systems in realizing their objectives of protecting the public and of punishing and rehabilitating offenders. In this examination, the Committee shall:**

- (1) **Study the budget, programs, and policies of the Department of Correction, Departments of Correction and Crime Control and Public Safety, to determine ways in which the General Assembly**

may improve the effectiveness of ~~that Department; those Departments;~~

- (2) Examine the effectiveness of the Department of Correction in implementing the public policy stated in G.S. 148-26 of providing work assignments and employment for inmates as a means of reducing the cost of maintaining the inmate population while enabling inmates to acquire or retain skills and work habits needed to secure honest employment after their release; and release;
- (2a) Examine the effectiveness of the Department of Crime Control and Public Safety in implementing the duties and responsibilities charged to the Department in G.S. 143B-474 and the overall effectiveness and efficiency of law enforcement in the State; and
- (3) Study any other ~~corrections~~ matters that the Committee considers necessary.

(b) The Committee may make interim reports to the General Assembly on matters for which it may report to a regular session of the General Assembly. A report to the General Assembly may contain any legislation needed to implement a recommendation of the Committee.

"§ 120-70.95. *Organization of Committee.*

(a) The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair of the Joint Legislative Corrections and Crime Control Oversight Committee. The Committee shall meet at least once a quarter and may meet at other times upon the joint call of the cochairs.

(b) A quorum of the Committee is nine members. No action may be taken except by a majority vote at a meeting at which a quorum is present. While in the discharge of its official duties, the Committee has the powers of a joint committee under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4.

(c) Members of the Committee receive subsistence and travel expenses as provided in G.S. 120-3.1. The Committee may contract for consultants or hire employees in accordance with G.S. 120-32.02. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Committee in its work. Upon the direction of the Legislative Services Commission, the Supervisors of Clerks of the Senate and of the House of Representatives shall assign clerical staff to the Committee. The expenses for clerical employees shall be borne by the Committee."

(b) G.S. 147-16(b)(4) reads as rewritten:

"(4) The Chairs of the Joint Legislative Corrections and Crime Control Oversight Committee."

(c) G.S. 148-37(c) reads as rewritten:

"(c) In addition to the authority contained in subsections (a) and (b) of this section, and in addition to the contracts ratified by subsection (f) of this section, the Secretary of Correction may enter into contracts with any public entity or any private nonprofit or for-profit firms for the confinement and care of State prisoners in any out-of-state correctional facility when to do so would most economically and effectively promote the purposes served by the

Department of Correction. Contracts entered into under the authority of this subsection shall be for a period not to exceed two years and shall be renewable from time to time for a period not to exceed two years. Prisoners may be sent to out-of-state correctional facilities only when there are no available facilities in this State within the State prison system to appropriately house those prisoners. Any contract made under the authority of this subsection shall be approved by the Department of Administration before the contract is executed. Before expending more than the amount specifically appropriated by the General Assembly for the out-of-state housing of inmates, the Department shall obtain the approval of the Joint Legislative Commission on Governmental Operations and shall report such expenditures to the Chairs of the Senate and House Appropriations Committees, the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety, and the Chairs of the Joint Legislative Corrections and Crime Control Oversight Committee."

(d) G.S. 148-37(g) reads as rewritten:

"(g) The Secretary of Correction may contract with private for-profit or nonprofit firms for the provision and operation of four or more confinement facilities totaling up to 2,000 beds in the State to house State prisoners when to do so would most economically and effectively promote the purposes served by the Department of Correction. This 2,000-bed limitation shall not apply to the 500 beds in private substance abuse treatment centers authorized by the General Assembly prior to July 1, 1995. Whenever the Department of Correction determines that new prison facilities are required in addition to existing and planned facilities, the Department may contract for any remaining beds authorized by this section before constructing State-operated facilities.

Contracts entered under the authority of this subsection shall be for a period not to exceed 10 years, shall be renewable from time to time for a period not to exceed 10 years. The Secretary of Correction shall enter contracts under this subsection only if funds are appropriated for this purpose by the General Assembly. Contracts entered under the authority of this subsection may be subject to any requirements for the location of the confinement facilities set forth by the General Assembly in appropriating those funds.

Once the Department has made a determination to contract for additional private prison beds, it shall issue a request for proposals within 30 days of the decision. The request for proposals shall require bids to be submitted within two months, and the Department shall award contracts at the earliest practicable date after the submission of bids. The Secretary of Correction, in consultation with the Chairs of the Joint Legislative Corrections and Crime Control Oversight Committee and the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety, shall make recommendations to the State Purchasing Officer on the final award decision. The State Purchasing Officer shall make the final award decision, and the contract shall then be subject to the approval of the Council of State after consultation with the Joint Legislative Commission on Governmental Operations.

Contracts made under the authority of this subsection may provide the State with an option to purchase the confinement facility or may provide for the purchase of the confinement facility by the State. Contracts made under the authority of this subsection shall state that plans and specifications for private confinement facilities shall be furnished to and reviewed by the Office of State Construction. The Office of State Construction shall inspect and review each project during construction to ensure that the project is suitable for habitation and to determine whether the project would be suitable for future acquisition by the State. All contracts for the housing of State prisoners in private confinement facilities shall require a minimum of ten million dollars (\$10,000,000) of occurrence-based liability insurance and shall hold the State harmless and provide reimbursement for all liability arising out of actions caused by operations and employees of the private confinement facility.

Prisoners housed in private confinement facilities pursuant to this subsection shall remain subject to the rules adopted for the conduct of persons committed to the State prison system. The Secretary of Correction may review and approve the design and construction of private confinement facilities before housing State prisoners in these facilities. The rules regarding good time, gain time, and earned credits, discipline, classification, extension of the limits of confinement, transfers, housing arrangements, and eligibility for parole shall apply to inmates housed in private confinement facilities pursuant to this subsection. The operators of private confinement facilities may adopt any other rules as may be necessary for the operation of those facilities with the written approval of the Secretary of Correction. Custodial officials employed by a private confinement facility are agents of the Secretary of Correction and may use those procedures for use of force authorized by the Secretary of Correction to defend themselves, to enforce the observance of discipline in compliance with confinement facility rules, to secure the person of a prisoner, and to prevent escape. Private firms under this subsection shall employ inmate disciplinary and grievance policies of the North Carolina Department of Correction."

(e) G.S. 148-37(i) reads as rewritten:

"(i) The Department of Correction shall make a written report no later than March 1 of every odd-numbered year, beginning in 1997, on the substance of all outstanding contracts for the housing of State prisoners entered into under the authority of this section. The report shall be submitted to the Council of State, the Department of Administration, the Joint Legislative Commission on Governmental Operations, and the Joint Legislative Corrections and Crime Control Oversight Committee. In addition to the report, the Department of Correction shall provide information on contracts for the housing of State prisoners as requested by these groups."

(f) All reports directed by this act to be made to the Joint Legislative Corrections Oversight Committee shall be made to the Joint Legislative Corrections and Crime Control Oversight Committee. The Revisor of Statutes shall substitute any remaining references in the General Statutes to the Joint Legislative Corrections Oversight Committee with the Joint Legislative Corrections and Crime Control Oversight Committee.

(g) This section is effective when this act becomes law.

PART XXII. GENERAL ASSEMBLY

Requested by: Senators Plyler, Perdue, Odom, Representatives Ives, McCombs, Sherrill

ANALYSIS OF STATE BUDGET DURING THE INTERIM

Section 22. (a) The President Pro Tempore of the Senate shall authorize the standing Appropriations Committees and standing Appropriations Subcommittees of the Senate and the Speaker of the House of Representatives shall authorize the standing Appropriations Committees and standing Appropriations Subcommittees of the House of Representatives to meet separately or jointly during the interim between the Regular 1997 and 1998 Sessions of the General Assembly to review matters related to the State budget, the organization of State government, and any other matter as they deem appropriate. The review shall include, but not be limited to, an analysis of the budget of each agency to determine:

- (1) The cost savings that could be realized from improvements in administrative structure, practices, and procedures in State agencies;
- (2) Ways to increase efficiency in budgeting and use of resources; and
- (3) Instances in which functions of agencies are duplicative, overlapping, obsolete, incomplete in scope or coverage, or fail to accomplish legislative objectives, and should be abolished, transferred, or modified to accomplish cost savings.

(b) The President Pro Tempore of the Senate shall appoint an oversight committee comprised of the Senate Appropriations Committee Chairs and one member of each Senate Appropriations Subcommittee and the Speaker of the House of Representatives shall appoint an oversight committee comprised of the House Appropriations Committee Chairs and one member of each House Appropriations Subcommittee to meet separately or jointly to oversee the work of the Appropriations Committees and Subcommittees during the interim.

Requested by: Senator Perdue, Representatives Ives, McCombs, Sherrill

HEALTH CARE OVERSIGHT COMMITTEE

Section 22.1. (a) Of the funds appropriated in this act to the General Assembly, the sum of fifty thousand dollars (\$50,000) for the 1997-98 fiscal year and the sum of fifty thousand dollars (\$50,000) for the 1998-99 fiscal year shall be allocated by the Legislative Services Commission for the Joint Legislative Health Care Oversight Committee established under subsection (b) of this section.

(b) Chapter 120 of the General Statutes is amended by adding the following new Article to read:

"ARTICLE 12K.**"Joint Legislative Health Care Oversight Committee.****"§ 120-70.96. Creation and membership of Joint Legislative Health Care Oversight Committee.**

There is established the Joint Legislative Health Care Oversight Committee. The Committee consists of 14 members as follows:

- (1) Seven members of the Senate appointed by the President Pro Tempore of the Senate, at least three of whom are members of the minority party; and
- (2) Seven members of the House of Representatives appointed by the Speaker of the House of Representatives, at least three of whom are members of the minority party.

Terms on the Committee are for two years and begin on the convening of the General Assembly in each odd-numbered year, except the terms of the initial members, which begin on appointment. Members may complete a term of service on the Committee even if they do not seek reelection or are not reelected to the General Assembly, but resignation or removal from service in the General Assembly constitutes resignation or removal from service on the Committee.

A member continues to serve until the member's successor is appointed. A vacancy shall be filled within 30 days by the officer who made the original appointment.

"§ 120-70.97. Purpose and powers of Committee.

(a) The Joint Legislative Health Care Oversight Committee shall review, on a continuing basis, the provision of health care and health care coverage to the citizens of this State, in order to make ongoing recommendations to the General Assembly on ways to improve health care for North Carolinians. To this end, the Committee shall study the delivery, availability, and cost of health care in North Carolina. The Committee may also study other matters related to health care and health care coverage in this State.

(b) The Committee may make interim reports to the General Assembly on matters for which it may report to a regular session of the General Assembly. A report to the General Assembly may contain any legislation needed to implement a recommendation of the Committee.

"§ 120-70.98. Organization of Committee.

(a) The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair of the Joint Legislative Health Care Oversight Committee. The Committee shall meet at least once a quarter and may meet at other times upon the joint call of the cochairs.

(b) A quorum of the Committee is eight members. No action may be taken except by a majority vote at a meeting at which a quorum is present. While in the discharge of its official duties, the Committee has the powers of a joint committee under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4.

(c) Members of the Committee receive subsistence and travel expenses as provided in G.S. 120-3.1. The Committee may contract for consultants or hire employees in accordance with G.S. 120-32.02. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Committee in its work. Upon the direction of the Legislative Services Commission, the Supervisors of Clerks of the Senate and of the House of Representatives shall assign clerical staff to the Committee. The expenses for clerical employees shall be borne by the Committee."

Requested by: Representatives Ives, McCombs, Sherrill, Shubert
STATE EMPLOYEES' COMMUNICATIONS WITH LEGISLATORS

Section 22.2. (a) Chapter 126 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 15.

"Communications With Members of the General Assembly.

"§ 126-90. *Communications with members of the General Assembly.*

A State employee's right to speak to a member of the General Assembly at the member's request shall not be directly or indirectly limited by the employee's supervisor or by any policy of the department, agency, or institution that employs that State employee."

(b) G.S. 126-5 is amended by adding a new subsection to read:

"(c6) Article 15 of this Chapter shall apply to all State employees, public school employees, and community college employees."

PART XXIII. OFFICE OF THE GOVERNOR

Requested by: Senators Odom, Perdue, Plyler, Conder, Jordan,
 Representatives Ives, Sherrill, McCombs, Hardy, Jeffus

FIRE PROTECTION GRANT FUND

Section 23. (a) Chapter 58 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 85A.

"State Fire Protection Grant Fund.

"§ 58-85A-1. *Creation of Fund; allocation to local fire districts and political subdivisions of the State.*

(a) There is created in the Office of State Budget and Management the State Fire Protection Grant Fund. The purpose of the Fund is to compensate local fire districts and political subdivisions of the State for providing local fire protection to State-owned buildings and their contents.

(b) The Office of State Budget and Management shall develop and implement an equitable and uniform statewide method for distributing any funds to the State's local fire districts and political subdivisions.

Upon the request of the Director of the Budget, the Department of Insurance shall provide the Office of State Budget and Management all information necessary to develop and implement the formula.

(c) It is the intent of the General Assembly to appropriate annually to the State Fire Protection Grant Fund at least three million eighty thousand dollars (\$3,080,000) from the General Fund, one hundred fifty thousand dollars (\$150,000) from the Highway Fund, and nine hundred seventy thousand dollars (\$970,000) from University of North Carolina receipts. Funds received from the General Fund shall be allocated only for providing local fire protection for State-owned property supported by the General Fund; funds received from the Highway Fund shall be allocated only for providing local fire protection for State-owned property supported by the Highway Fund; and funds received from University of North Carolina receipts shall be allocated only for providing local fire protection for State-owned property supported by University of North Carolina receipts."

(b) G.S. 143-3.7 is repealed.

(c) Of the funds appropriated from the General Fund to the Office of State Budget and Management, the sum of three million eighty thousand dollars (\$3,080,000) for the 1997-98 fiscal year and the sum of three million eighty thousand dollars (\$3,080,000) for the 1998-99 fiscal year shall be used for the State Fire Protection Grant Fund.

(d) Of the funds appropriated from the Highway Fund to the Office of State Budget and Management, the sum of one hundred fifty thousand dollars (\$150,000) for the 1997-98 fiscal year and the sum of one hundred fifty thousand dollars (\$150,000) for the 1998-99 fiscal year shall be used for the State Fire Protection Grant Fund.

(e) Of the receipts available to The University of North Carolina, the sum of nine hundred seventy thousand dollars (\$970,000) for the 1997-98 fiscal year and the sum of nine hundred seventy thousand dollars (\$970,000) for the 1998-99 fiscal year shall be transferred to the State Fire Protection Grant Fund for use as provided in G.S. 58-85A-1(c).

PART XXIV. DEPARTMENT OF SECRETARY OF STATE

Requested by: Representatives Ives, McCombs, Sherrill, Senator Warren
INFORMATION RESOURCES MANAGEMENT COMMISSION

Section 24. (a) Effective when this act becomes a law, G.S. 143B-426.21(a), as amended by Section 6 of S.L. 1997-148, reads as rewritten:

"(a) Creation; Membership. -- The Information Resource Management Commission is created in the Department of Commerce. The Commission consists of the following members:

- (1) Four members of the Council of State, appointed by the Governor.
- (1a) The Secretary of State.
- (2) The Secretary of Administration.
- (3) The State Budget Officer.
- (4) Two members of the Governor's cabinet, appointed by the Governor.
- (5) One citizen of the State of North Carolina with a background in and familiarity with information systems or telecommunications, appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121.
- (6) One citizen of the State of North Carolina with a background in and familiarity with information systems or telecommunications, appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121.
- (7) The Chair of the Governor's Committee on Data Processing and Information Systems.
- (8) The Chair of the State Information Processing Services Advisory Board.
- (9) The Chair of the Criminal Justice Information Network Governing Board.
- (10) The State Controller.

Members of the Commission shall not be employed by or serve on the board of directors or other corporate governing body of any information systems, computer hardware, computer software, or telecommunications vendor of goods and services to the State of North Carolina.

The two initial cabinet members appointed by the Governor and the two initial citizen members appointed by the General Assembly shall each serve a term beginning September 1, 1992, and expiring on June 30, 1995. Thereafter, their successors shall be appointed for four-year terms, commencing July 1. Members of the Governor's cabinet shall be disqualified from completing a term of service of the Commission if they are no longer cabinet members.

The appointees by the Governor from the Council of State shall each serve a term beginning on September 1, 1992, and expiring on June 30, 1993. Thereafter, their successors shall be appointed for four-year terms, commencing July 1. Members of the Council of State shall be disqualified from completing a term of service on the Commission if they are no longer members of the Council of State.

Vacancies in the two legislative appointments shall be filled as provided in G.S. 120-122.

The Commission chair shall be elected in the first meeting of each calendar year from among the appointees of the Governor from the Council of State and shall serve a term of one year. The Secretary of Commerce shall be secretary to the Commission.

No member of the Information Resource Management Commission shall vote on an action affecting solely his or her own State agency."

(b) This section expires June 30, 2001.

PART XXV. DEPARTMENT OF STATE AUDITOR

Requested by: Senators Plyler, Perdue, Odom

ADVICE OF GOVERNMENTAL OPERATIONS ON PRIORITIZING REQUESTS FOR ASSISTANCE

Section 25. G.S. 147-64.5(b) reads as rewritten:

"(b) Requests for Auditor Assistance. -- Committees of the General Assembly, the Governor, and other State officials may make written requests that the Auditor undertake, to the extent deemed practicable and within the resources provided, a specific audit or investigation; provide technical assistance and advice; and provide recommendations on management systems, finance, accounting, auditing, and other areas of management interest. The Auditor may request the advice of the Joint Legislative Commission on Governmental Operations in prioritizing these requests and in determining whether the requests are practicable and can be undertaken within the resources provided."

Requested by: Representatives Ives, McCombs, Sherrill, Senators Plyler, Perdue, Odom

PERFORMANCE AUDIT OF SIPS

Section 25.1. The State Auditor shall conduct a performance audit of State Information Processing Services (SIPS). In conducting the audit, the

State Auditor shall consider the growth in the number of SIPS employees, the distribution of work within SIPS, increases in employees' salaries, use of SIPS receipts, and all other indicators of cost of services in relation to service delivery, including a review of the business plan and rate setting process. The State Auditor shall report the results of this audit to the Joint Legislative Commission on Governmental Operations prior to April 15, 1998.

PART XXVI. DEPARTMENT OF INSURANCE

Requested by: Senator Warren, Representative Ives

CONSTRUCTION CODE RECEIPTS

Section 26. Departmental receipts realized by the Department of Insurance in excess of amounts approved for expenditure by the General Assembly, as adjusted by the Office of State Budget and Management to reflect the distribution of statewide reserves, shall revert to the General Fund at the end of each fiscal year. This section shall not apply to receipts realized by the Department from the sale of copies of the State construction code if the receipts are used for the purchase of copies of the code for sale to the public, except that unspent construction code receipts shall revert to the General Fund at the end of each fiscal year.

Requested by: Senator Warren, Representative Ives

EXPAND USE OF INSURANCE REGULATORY FUND

Section 26.1. G.S. 58-6-25(d) reads as rewritten:

"(d) Use of Proceeds. -- The Insurance Regulatory Fund is created in the State treasury, under the control of the Office of State Budget and Management. The proceeds of the charge levied in this section and all fees collected under Articles 69 through 71 of this Chapter and under Articles 9 and 9C of Chapter 143 of the General Statutes shall be credited to the Fund. The Fund shall be placed in an interest-bearing account and any interest or other income derived from the Fund shall be credited to the Fund. Moneys in the Fund may be spent only pursuant to appropriation by the General Assembly and in accordance with the line item budget enacted by the General Assembly. The Fund is subject to the provisions of the Executive Budget Act, except that no unexpended surplus of the Fund shall revert to the General Fund. All money credited to the Fund shall be used to reimburse the General Fund for the following:

- (1) Money appropriated to the Department of Insurance to pay its expenses incurred in regulating the insurance industry and other industries in this State.
- (2) Money appropriated to State agencies to pay the expenses incurred in regulating the insurance industry, in certifying statewide data processors under Article 11A of Chapter 131E of the General Statutes, and in purchasing reports of patient data from statewide data processors certified under that Article.
- (3) Money appropriated to the Department of Revenue to pay the expenses incurred in collecting and administering the taxes on

insurance companies levied in Article 8B of Chapter 105 of the General Statutes."

PART XXVII. DEPARTMENT OF ADMINISTRATION

Requested by: Senators Perdue, Plyler, Odom, Representatives Ives, McCombs, Sherrill

COMBINE PROGRAMS TO HELP WOMEN AND CHILDREN

Section 27. The Office of State Budget and Management shall study the feasibility of consolidating the budgets and services and the administration of federal and State grants for domestic violence programs and rape crisis programs in the State, including those programs currently administered by the Council for Women, Department of Administration, the Governor's Crime Commission, Department of Crime Control and Public Safety, and the Division of Social Services, Department of Human Resources. This study shall include an analysis of the feasibility of combining budgets and services of the NC Council for Women (Fund 1731), the Domestic Violence Program (Fund 1781), the Domestic Violence Center (Fund 1782), the Displaced Homemakers Program (Fund 1732), and the Rape Crisis Program (Fund 1734) and an analysis of ways to promote more efficient and effective coordination of resources and services at the State and local levels. The Office of State Budget and Management shall report the findings and recommendations of the study to the House and Senate Appropriations Subcommittees on General Government and the Fiscal Research Division by March 31, 1998.

Requested by: Senator Warren, Representatives Ives, McCombs, Sherrill

PROCUREMENT CARD PILOT PROGRAM

Section 27.1. (a) Except as provided by this section, no State agency, community college, constituent institution of The University of North Carolina, or local school administrative unit shall use procurement cards for the purchase of equipment or supplies prior to July 1, 1998.

(b) The Secretary of Administration shall designate not more than 15 governmental entities to participate in a pilot program on the purchase of supplies and equipment by procurement card. Those designated shall represent a cross section of governmental entities and shall include at least one State agency, one community college, two constituent institutions of The University of North Carolina, and one local school administrative unit.

(c) The Division of Purchase and Contract and the State Controller shall report to the Joint Legislative Commission on Governmental Operations on March 1, 1998, on this pilot program. The report shall include estimates from the pilot program of how many purchasing and accounts payable personnel hours could be saved or redirected or both as a result of the procurement card, and the impact of the procurement card on accounting and budgeting records and on purchasing history records. The report shall also include a discussion of the effect of the procurement card on the State's ability to track both out-of-state sales taxes and North Carolina State and local sales tax payments by county. Finally, the report shall include a discussion of any other costs and benefits of the procurement card.

(d) This section does not affect contracts for procurement cards entered into prior to March 31, 1997.

Requested by: Senator Warren, Representatives Ives, McCombs, Sherrill
**STATE HEALTH PLAN PURCHASING ALLIANCE BOARD
 OPERATING FUNDS REVERT**

Section 27.2. (a) G.S. 143-635(c) reads as rewritten:

~~"(c) Moneys appropriated by the General Assembly shall be deposited in the Fund and shall become part of the continuation budget of the Department of Administration, for operations of the State Health Plan Purchasing Alliance Board shall not be part of the State Health Plan Purchasing Alliance Fund."~~

(b) The sum of six hundred forty-eight thousand seven hundred eighteen dollars (\$648,718) for the 1996-97 fiscal year shall be transferred from the State Health Plan Purchasing Alliance Fund to the General Fund.

(c) All monies for operations of the State Health Plan Purchasing Alliance Board unexpended at the end of the 1996-97 fiscal year shall revert to the General Fund.

(d) This section becomes effective June 30, 1997.

Requested by: Senator Warren, Representatives Ives, McCombs, Sherrill
**GOVERNOR'S ADVOCACY COUNCIL FOR PERSONS WITH
 DISABILITIES**

Section 27.3. The Department of Human Resources shall continue to provide the current office space for the four regional offices of the Governor's Advocacy Council for Persons with Disabilities or office space that is comparable to that now used by the Council.

Requested by: Senator Warren, Representatives Ives, McCombs, Sherrill
FEES FOR USE OF STATE-OWNED OFFICE SPACE

Section 27.4. G.S. 143-342.1 reads as rewritten:

"§ 143-342.1. State-owned office space; fees for use by self-supporting agencies."

The Department shall determine equitable fees for the use of State owned and operated office space, and it shall assess the Department of State Treasurer, the Department of Insurance, and all self-supporting agencies using any of this office space for payment of these fees. For the purposes of this section, self-supporting agencies are those agencies designated by the Director of the Budget as being primarily funded from sources other than State appropriations. Fees assessed under this section shall be paid to the General Fund."

Requested by: Senator Warren, Representatives Ives, McCombs, Sherrill
PARKING REVENUES

Section 27.5. The Secretary of Administration may use funds from parking revenues that are in excess of parking system expense requirements to fund the fifteen dollar (\$15.00) per month subsidies for vanpools and transit passes.

Requested by: Representatives Ives, McCombs, Sherrill

TRANSFER POSITIONS FROM CAPITOL POLICE TO REVENUE

Section 27.6. The positions of 10 property guards are transferred from the Capitol Police in the Department of Administration to the Department of Revenue. The funds, equipment, supplies, records, and other property to support the positions transferred by this section are also transferred from the Capitol Police in the Department of Administration to the Department of Revenue. Any disputes arising out of this transfer shall be resolved by the Director of the Budget.

Requested by: Representative Sutton, Senator Weinstein

INDIAN CULTURAL CENTER FUNDS

Section 27.7. Section 33(a) of Chapter 561 of the 1993 Session Laws reads as rewritten:

"(a) Of the funds appropriated from the General Fund to the Department of Administration, the sum of seven hundred fifty thousand dollars (\$750,000) for the 1993-94 fiscal year shall be used for the purchase of land as necessary, an environmental study, and design as necessary, of the North Carolina Indian Cultural Center in Robeson County. Up to ~~five thousand dollars (\$50,000)~~ one hundred fifty thousand dollars (\$150,000) of these funds may be used by the North Carolina Indian Cultural Center, Inc., for administrative and operating expenses. The remaining funds shall revert on June 30, 1998."

PART XXVIII. OFFICE OF STATE CONTROLLER

Requested by: Representatives Ives, McCombs, Sherrill, Senator Warren

NORTH CAROLINA INFORMATION HIGHWAY

Section 28. (a) The funds appropriated in this act to the Office of State Controller for the operation of the North Carolina Information Highway shall be used only for costs incurred by the Office of State Controller related to the operations and support of the North Carolina Information Highway. No funds appropriated in this act shall be expended to pay Minimum Monthly usage charges for North Carolina Information Highway Services.

(b) The Office of State Controller may use the two hundred twenty-four thousand dollars (\$224,000) in savings that accrued in fiscal year 1996-97 to fund new sites in fiscal year 1997-98.

(c) The Office of State Controller is encouraged to consider new technologies and capabilities as a means of providing NCIH users access to the existing ATM-SONET network. The Office of State Controller shall report to the General Assembly in 1998 before the reconvening of the regular session on its findings.

(d) The State Controller shall report quarterly to the Joint Legislative Commission on Governmental Operations regarding the costs incurred by the Office of State Controller related to the operations and support of the North Carolina Information Highway.

(e) Given the appropriations subcommittees meet in the interim, the House and Senate Appropriations Subcommittees on General Government

will consider information leading to a recommendation to adopt an alternate approach to State funding of sites, effective in fiscal year 1998-99. The subcommittee is not limited to the information that may be considered and may include in the review cost-sharing measures that require sites to participate in the annual cost of network charges; the phasing-out of one hundred percent (100%) State funding of site network charges; and the cost of adding new sites with a specific period of time designated for State funding of network charges.

Requested by: Senators Warren, Rand, Plyler, Perdue, Odom, Representatives Ives, McCombs, Sherrill

FUNDS FOR YEAR 2000 CONVERSION OF THE STATE'S COMPUTER SYSTEM

Section 28.1. (a) The Office of State Controller shall include in its charges for data processing services costs of converting computer applications to operate properly at the turn of the century. The State Controller shall develop procedures for managing the year 2000 conversion.

(b) The State Controller shall analyze the needs of State agencies for funds to convert their systems. In the course of the analysis, the State Controller shall consider an agency's need for each system it wishes to convert and the most cost-effective manner in which to manage conversion. The State Controller shall certify to the Office of State Budget and Management the cost of each State agency for the year 2000 conversion.

(c) The Director of the Budget may use up to twenty-five million dollars (\$25,000,000) of projected 1997-98 General Fund reversions to cover the cost of the year 2000 conversion in General Fund agencies during the 1997-98 fiscal year.

(d) Beginning October 1, 1997, and quarterly thereafter, the Office of State Controller shall report to the Joint Legislative Commission on Governmental Operations on the status of the conversion and cost projections.

PART XXIX. DEPARTMENT OF REVENUE

Requested by: Senator Warren

STUDY REVENUE'S STAFF REQUIREMENTS

Section 29. The Office of State Budget and Management, Management and Productivity Unit, shall complete work on the assessment of the Department of Revenue's staff requirements initiated pursuant to Section 15.6 of Chapter 18 of the Session Laws, Second Extra Session 1996. In the final phase of the study, the Office of State Budget and Management shall review workload requirements and make specific recommendations about staffing for the Department. The Office of State Budget and Management shall make a final report to the House and Senate Appropriations Subcommittees on General Government and the Fiscal Research Division of the General Assembly by March 31, 1998, on the results. Prior to March 31, 1998, the Department of Revenue shall report to the Joint Legislative Commission on Governmental Operations before creating any new personnel positions.

Requested by: Senator Warren

EXTEND AND MODIFY PORTS TAX CREDIT

Section 29.1. (a) Section 4 of Chapter 977 of the 1991 Session Laws, as amended by Section 3 of Chapter 495 of the 1995 Session Laws, reads as rewritten:

"Sec. 4. This act is effective for taxable years beginning on or after March 1, 1992, and ending on or before February 28, ~~1998~~, 2001."

(b) Section 4 of Chapter 681 of the 1993 Session Laws, as amended by Section 17 of Chapter 17 of the 1995 Session Laws and by Section 4 of Chapter 495 of the 1995 Session Laws, reads as rewritten:

"Sec. 4. This act is effective for taxable years beginning on or after January 1, 1994, and ending on or before February 28, ~~1998~~, 2001."

(c) G.S. 105-130.41(b) reads as rewritten:

"(b) Limitations. -- This credit may not exceed fifty percent (50%) of the amount of tax imposed by this Division for the taxable year reduced by the sum of all credits allowable, except tax payments made by or on behalf of the corporation. Any unused portion of the credit may be carried forward for the succeeding five years. The maximum cumulative credit that may be claimed by a corporation under this section is ~~one~~ two million dollars ~~(\$1,000,000)~~, (\$2,000,000)."

(d) G.S. 105-151.22(b) reads as rewritten:

"(b) Limitations. -- This credit may not exceed fifty percent (50%) of the amount of tax imposed by this Division for the taxable year reduced by the sum of all credits allowable, except tax payments made by or on behalf of the taxpayer. Any unused portion of the credit may be carried forward for the succeeding five years. The maximum cumulative credit that may be claimed by a taxpayer under this section is ~~one~~ two million dollars ~~(\$1,000,000)~~, (\$2,000,000)."

(e) Subsections (c) and (d) of this section are effective for taxable years beginning on or after January 1, 1998. The remainder of this section is effective for taxable years beginning on or after January 1, 1997.

PART XXX. DEPARTMENT OF CULTURAL RESOURCES

Requested by: Senator Warren, Representatives Ives, McCombs, Sherrill
**DEPARTMENT OF CULTURAL RESOURCES MAY RETAIN
HISTORICAL PUBLICATIONS RECEIPTS**

Section 30. The Historical Publications Section, Division of Archives and History, Department of Cultural Resources, may retain the receipts, including over-realized receipts, from the sale of its publications during each year of the 1997-99 biennium. The receipts from the sale of those publications retained by the Historical Publications Section shall not revert but shall be used to reprint the publications.

Requested by: Senator Warren, Representatives Ives, McCombs, Sherrill
**MODIFY THE AREAS OF RESPONSIBILITY OF THE ROANOKE
ISLAND COMMISSION**

Section 30.1. G.S. 143B-131.2(b)(1) reads as rewritten:

- "(1) To advise the Secretary of Transportation and adopt rules on matters pertaining to, affecting, and encouraging restoration, preservation, and enhancement of the appearance, maintenance, and aesthetic quality of U.S. Highway 64/264 and the U.S. 64/264 Bypass and N.C. 400 travel corridors on Roanoke Island and the grounds on Ice Plant Island, Roanoke Island Festival Park."

Requested by: Senators Warren, Kerr, Representatives Ives, McCombs, Sherrill, Church

MUSEUM OF HISTORY RESTAURANT

Section 30.2. The Secretary of Cultural Resources shall designate the North Carolina Museum of History Associates, Inc., as the appropriate organization to contract to provide restaurant services for the North Carolina Museum of History, as provided in subdivision (17) of G.S. 121-4. The North Carolina Museum of History Associates, Inc., shall negotiate a contract based upon the amount of monthly rent and a percentage of gross receipts. The North Carolina Museum of History Associates, Inc., shall submit to the Joint Legislative Commission on Governmental Operations and the House and Senate Appropriations Subcommittee on General Government by June 30 of each fiscal year a report which shall include (i) an operations report, (ii) a profit and loss statement, and (iii) an analysis of how profits have been expended or reserved to support programs and projects of the North Carolina Museum of History.

Requested by: Senator Warren

FUNDS FOR MUSEUM OF THE ALBEMARLE

Section 30.3. The Office of State Budget and Management is authorized to transfer the sum of forty-seven thousand eight hundred eighty-seven dollars (\$47,887) from Fund 1110 (Code 536930) to Fund 1500 (Code 534160) to replace funds that were reallocated in the 1996-97 fiscal year to support Newbold-White House.

Requested by: Senators Plyler, Perdue, Odom

PROCEDURE FOR AWARD OF CULTURAL RESOURCES GRANTS

Section 30.4. Of the funds appropriated to the Department of Cultural Resources, the sum of eight million dollars (\$8,000,000) for the 1997-98 fiscal year shall be used for grants to nonprofit organizations or local governmental entities throughout the State for cultural, historical, or artistic organizations, for cultural, historical, or artistic projects, and for museums. The Secretary of the Department of Cultural Resources shall establish a process for the review, evaluation, and consideration of applications for these grants.

In awarding grants, the Secretary shall consider the merits of the project, the cultural, historical, or artistic significance of the project, the benefit to the State and local communities of the project, and the cost of the project. Prior to awarding grants, the Secretary shall consult with the Joint Legislative Commission on Governmental Operations. These grants are not subject to review by the Historical Commission.

Requested by: Representatives Ives, McCombs, Sherrill, Decker, Senators Warren, Kerr

NORTH CAROLINA POSTAL HISTORY COMMISSION

Section 30.5. Chapter 143 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 71.

"North Carolina Postal History Commission.

"§ 143-675. Commission established; purpose; members; terms of office; quorum; compensation; termination.

(a) **Establishment.** -- There is established the North Carolina Postal History Commission. The Commission shall be located within the Department of Cultural Resources for organizational, budgetary, and administrative purposes.

(b) **Purpose.** -- The purpose of the Commission is to advise the Secretary of Cultural Resources on the collection, preservation, cataloging, publication, and exhibition of material associated with North Carolina's postal history.

(c) **Membership.** -- The Commission shall consist of 16 members, as follows:

- (1) **Four persons appointed by the Governor, two of whom shall be recommended by the President of the North Carolina Postal History Society.**
- (2) **Four persons appointed by the President Pro Tempore of the Senate, two of whom shall be recommended by the President of the North Carolina Postal History Society.**
- (3) **Four persons appointed by the Speaker of the House of Representatives, two of whom shall be recommended by the President of the North Carolina Postal History Society.**
- (4) **Four persons appointed by the Secretary of Cultural Resources, two of whom shall be recommended by the President of the North Carolina Postal History Society.**

The members appointed to the North Carolina Postal History Commission shall be chosen from among individuals who have education or experience in the fields of archives preservation, North Carolina history, historical administration, museum administration, or a knowledge of North Carolina's postal history.

(d) **Terms.** -- Members shall serve for the duration of the Commission. Initial terms shall commence July 1, 1997.

(e) **Chair.** -- The chair shall be elected biennially from the membership of the Commission from among its members. The initial term shall commence July 1, 1997.

(f) **Vacancies.** -- Vacancies resulting from the resignation of a member or otherwise shall be filled in the same manner in which the original appointment was made, and the term shall be for the balance of the unexpired term.

(g) **Compensation.** -- The Commission members shall receive no salary as a result of serving on the Commission but shall receive per diem, subsistence, and travel expenses in accordance with the provisions of G.S. 120-3.1, 138-5, and 138-6, as applicable.

(h) Removal. -- Members may be removed in accordance with G.S. 143B-13.

(i) Meetings. -- The chair shall convene the Commission. The Commission shall meet at least quarterly until an exhibit on postal history is mounted and at least semiannually thereafter.

(j) Quorum. -- A majority of the members of the Commission shall constitute a quorum for the transaction of business. The affirmative vote of a majority of the members present at meetings of the Commission shall be necessary for action to be taken by the Commission.

(k) Termination of Commission. -- The Commission shall terminate June 30, 2000.

"§ 143-676. Powers and duties of the Commission.

(a) Powers and Duties. -- The Commission shall have the following powers and duties:

(1) To advise the Secretary of Cultural Resources on the collection, preservation, cataloging, publication, and exhibition of materials associated with North Carolina's postal history in cooperation with the North Carolina Museum of History.

(2) To adopt bylaws by a majority vote of the Commission.

(3) To accept grants, contributions, devises, bequests, gifts, and services for the purpose of providing support to the Commission. The funds and property shall be retained by the Commission, and the Commission shall prescribe rules under which the Commission may accept donations of money, property, or personal services, and determine the value of donations of property or personal services.

(b) Contract Authority. -- The Commission may procure supplies, services, and property as appropriate and may enter into contracts, leases, or other legal agreements within funds available to carry out the purposes of this Article. All contracts, leases, or legal agreements entered into by the Commission shall terminate on the date of termination of the Commission. Termination shall not affect any disputes or causes of action of the Commission that arise before the date of termination, and the Department of Cultural Resources may prosecute or defend any causes of action arising before the date of termination. All property acquired by the Commission that remains in the possession of the Commission on the date of termination shall become the property of the Department of Cultural Resources.

"§ 143-677. Assignment of property; offices.

(a) Assignment of Property. -- Upon request of the Commission, the head of any State agency may assign property, equipment, and personnel of such agency to the Commission to assist the Commission in carrying out its duties under this Article. Assignments under this subsection shall be without reimbursement by the Commission to the agency from which the assignment was made. Property and equipment that remain in the possession of the Commission on the date of the termination of the Commission shall revert to the agency from which the property was acquired.

(b) Office Space. -- The Department of Cultural Resources shall provide office space in Raleigh for use as offices by the North Carolina Postal History Commission, and the Department of Cultural Resources shall

receive no reimbursement from the Commission for the use of the property during the life of the Commission.

"§ 143-678. Commission reports.

(a) Annual Report. -- Before July 1, 1998, the Commission shall submit to the General Assembly a comprehensive report incorporating specific recommendations of the Commission. After the initial report, the Commission shall submit a report to the General Assembly within 30 days of the convening of each regular session of the General Assembly.

(b) Final Report. -- The Commission shall submit a final report to the General Assembly no later than June 30, 2000. The final report shall include:

- (1) A summary of the activities of the Commission.
- (2) A final accounting of funds received and expended by the Commission.

"§ 143-679. Application of Article.

The provisions of Article 1 of Chapter 121 of the General Statutes apply to the Commission."

Requested by: Representatives Ives, McCombs, Sherrill, Culpepper, Senators Warren, Kerr

PRESERVATION OF BLACKBEARD'S FLAGSHIP

Section 30.6. Of the funds appropriated in this act for the 1997-98 fiscal year to the Department of Cultural Resources, the sum of two hundred thousand dollars (\$200,000) shall be used for the surveillance, preservation, and protection of the shipwreck of Blackbeard's flagship, Queen Anne's Revenge, and a systematic underwater archaeological recovery of cargo, tackle, and artifacts for preservation, interpretation, and display.

Requested by: Representatives Ives, McCombs, Sherrill, Mercer, Senators Warren, Kerr

PRINCEVILLE CEMETERY OVERSIGHT

Section 30.7. Within funds available, the Department of Cultural Resources shall provide oversight and guidance to the Town of Princeville and the Princeville Cemetery Commission with regard to the restoration of the Princeville Cemetery and the preparation of documents for the Princeville Cemetery to be placed on the National Register of Historic Places.

PART XXXI. STATE BOARD OF ELECTIONS

Requested by: Representatives Ives, McCombs, Sherrill, Senator Warren

STATEWIDE DATA ELECTIONS MANAGEMENT SYSTEM

Section 31. (a) The State Board of Elections shall establish a statewide data elections management system. The system shall prescribe data format standards, data communication standards, and data content standards. The State Board of Elections shall establish the system no later than November 1, 1997. Counties shall adhere to the standards prescribed by the system no later than August 31, 1998. The State Board of Elections may

adopt rules to implement this section. Chapter 150B of the General Statutes governs the adoption of rules by the State Board of Elections.

(b) Of the funds appropriated in this act to the State Board of Elections for a statewide data elections management system, the sum of one hundred fifty thousand dollars (\$150,000) may be used by the State Board of Elections to hire a project manager, to research and determine the needs of the local boards of election in each county, and to develop a needs assessment report.

(c) The remainder of the funds appropriated in Section 13.2 of Chapter 597 of the 1995 Session Laws shall be used to develop, implement, and operate a statewide data elections management system, which will include voter registration, campaign reporting, and election night returns. These funds shall be used only after the State Board of Elections and the Information Resource Management Commission have jointly approved and submitted a written, detailed implementation plan for statewide data elections management to the Joint Legislative Commission on Governmental Operations. That implementation plan shall include:

- (1) A description of the system being implemented;
- (2) A description of the system's capabilities, including user-friendliness;
- (3) An itemized estimate of the costs of the system, with a justification for each item, including a plan for implementing the system within the funds appropriated;
- (4) A list of the counties to be brought into the system during the fiscal year; and
- (5) A proposed project management plan.

After their initial joint report, the State Board of Elections and the Information Resource Management Commission shall make written quarterly joint reports to the Joint Legislative Commission on Governmental Operations, describing the status of the project, listing the counties that have been brought into the system and that are planned to be brought into the system, and the costs.

(d) To the extent that this section conflicts with G.S. 163-82.11 through G.S. 163-82.13, with Section 16 of Chapter 769 of the 1993 Session Laws, or with Section 13.2 of Chapter 507 of the 1995 Session Laws, this section prevails to the extent of the conflict. Except to the extent of the conflict, Section 16 of Chapter 769 of the 1993 Session Laws remains in effect.

Requested by: Representatives Ives, McCombs, Sherrill
FLEXIBILITY IN VOTING EQUIPMENT ALLOCATION
Section 31.1. G.S. 163-166 is repealed.

PART XXXII. DEPARTMENT OF TRANSPORTATION

Requested by: Senator Jordan, Representatives Bowie, Dockham, McMahan
**GLOBAL TRANSPARK AUTHORITY TO REIMBURSE HIGHWAY
FUND FROM FEDERAL SOURCES**

Section 32. When funds are provided from the Highway Fund to the Global TransPark Authority for environmental impact statements or assessments and the Global TransPark Authority applies for and receives reimbursement for those expenses from federal sources up to one million eight hundred thousand dollars (\$1,800,000), the federal reimbursements shall be paid over by the Global TransPark Authority into the Highway Fund within 30 days of receipt. These funds shall be allocated to State-funded maintenance appropriations in the manner approved by the Board of Transportation.

Requested by: Senator Jordan, Representatives Bowie, Dockham, McMahan
AIRCRAFT AND FERRY ACQUISITIONS

Section 32.1. G.S. 143B-350 is amended by adding a new subsection to read:

"(j) Before approving the purchase of an aircraft from the Equipment Fund or a ferry in a Transportation Improvement Program, the Board of Transportation shall prepare an estimate of the operational costs and capital costs associated with the addition of the aircraft or ferry and shall report those additional costs to the General Assembly pursuant to G.S. 136-12(b), and to the Joint Legislative Commission on Governmental Operations."

Requested by: Senator Jordan, Representatives Bowie, Dockham, McMahan
DEPARTMENT OF TRANSPORTATION TO PAY DEPARTMENT OF CORRECTION ONLY FOR ACTUAL MEDIUM CUSTODY INMATE LABOR

Section 32.2. The Department of Transportation shall pay the Department of Correction only for the actual labor performed by medium custody inmates.

Requested by: Senator Jordan, Representatives Bowie, Dockham, McMahan
HIGHWAY FUND ALLOCATIONS BY CONTROLLER

Section 32.3. Article 1 of Chapter 136 of the General Statutes is amended by adding a new section to read:

"§ 136-16.10. Allocations by Department Controller to eliminate overdrafts.

The Controller of the Department of Transportation shall allocate at the beginning of each fiscal year from the various appropriations made to the Department of Transportation for State Construction, State Funds to Match Federal Highway Aid, State Maintenance, and Ferry Operations, sufficient funds to eliminate all overdrafts on State maintenance and construction projects, and these allocations shall not be diverted to other purposes."

Requested by: Senator Jordan, Representatives Bowie, Dockham, McMahan
SMALL URBAN CONSTRUCTION PROGRAM DISCRETIONARY FUNDS

Section 32.4. Of the funds appropriated in this act to the Department of Transportation:

- (1) \$14,000,000 shall be allocated in each fiscal year for small urban construction projects. These funds shall be allocated equally in each fiscal year of the biennium among the 14 Highway Divisions

for the small urban construction program for small urban construction projects that are located within the area covered by a one-mile radius of the municipal corporate limits.

- (2) \$10,000,000 shall be used statewide for rural or small urban highway improvements, industrial access roads, and spot safety projects as approved by the Secretary of the Department of Transportation.

None of these funds used for rural secondary road construction are subject to the county allocation formula as provided in G.S. 136-44.5.

The Department of Transportation shall report to the members of the General Assembly on projects funded pursuant to this section in each member's district prior to the Board of Transportation's action. The Department shall make a quarterly comprehensive report on the use of these funds to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division.

Requested by: Senator Jordan, Representatives Bowie, Dockham, McMahan
USE OF ANNUAL UNRESERVED HIGHWAY FUND CREDIT BALANCE

Section 32.5. G.S. 136-44.2 reads as rewritten:

"§ 136-44.2. *Budget and appropriations.*

The Director of the Budget shall include in the 'Current Operations Appropriations Bill' an enumeration of the purposes or objects of the proposed expenditures for each of the construction and maintenance programs for that budget period for the State primary, secondary, urban, and State parks road systems. The State primary system shall include all portions of the State highway system located outside municipal corporate limits which are designated by N.C., U.S. or Interstate numbers. The State secondary system shall include all of the State highway system located outside municipal corporate limits that is not a part of the State primary system. The State urban system shall include all portions of the State highway system located within municipal corporate limits. The State parks system shall include all State parks roads and parking lots which are not also part of the State highway system.

All construction and maintenance programs for which appropriations are requested shall be enumerated separately in the budget. Programs that are entirely State funded shall be listed separately from those programs involving the use of federal-aid funds. Proposed appropriations of State matching funds for each of the federal-aid construction programs shall be enumerated separately as well as the federal-aid funds anticipated for each program in order that the total construction requirements for each program may be provided for in the budget. Also, proposed State matching funds for the highway planning and research program shall be included separately along with the anticipated federal-aid funds for that purpose.

Other program categories for which appropriations are requested, such as, but not limited to, maintenance, channelization and traffic control, bridge maintenance, public service and access road construction, and ferry operations shall be enumerated in the budget.

The Department of Transportation shall have all powers necessary to comply fully with provisions of present and future federal-aid acts. No

federally eligible construction project may be funded entirely with State funds unless the Department of Transportation has first consulted with the Joint Legislative Commission on Governmental Operations. For purposes of this section, 'federally eligible construction project' means any construction project except secondary road projects developed pursuant to G.S. 136-44.7 and 136-44.8 eligible for federal funds under any federal-aid act, whether or not federal funds are actually available.

The 'Current Operations Appropriations Bill' shall also contain the proposed appropriations of State funds for use in each county for maintenance and construction of secondary roads, to be allocated in accordance with G.S. 136-44.5 and 136-44.6. State funds appropriated for secondary roads shall not be transferred nor used except for the construction and maintenance of secondary roads in the county for which they are allocated pursuant to G.S. 136-44.5 and 136-44.6.

~~In the event receipts and increments to the State Highway Fund shall be more than the appropriations made for the preceding fiscal year, such excesses shall be allocated by the Director of the Budget to the Department of Transportation for school and industrial access roads and unforeseen happenings or state of affairs requiring prompt action, with fifty percent (50%) of the balance to be allocated to the State secondary roads program on the basis of need as determined by the Department of Transportation and the remaining fifty percent (50%) to be allocated in accordance with G.S. 136-44.5. If the unreserved credit balance in the Highway Fund on the last day of a fiscal year is greater than the amount estimated for that date in the Current Operations Appropriations Act for the following fiscal year, the excess shall be used in accordance with this paragraph. The Director of the Budget may allocate part or all of the excess among reserves for access and public roads, for unforeseen events requiring prompt action, or for other urgent needs. The amount not allocated to any of these reserves by the Director of the Budget shall be credited to a reserve for maintenance. The Board of Transportation shall report monthly to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division on the use of funds in the maintenance reserve.~~

The Department of Transportation may provide for costs incurred or accrued for traffic control measures to be taken by the Department at major events which involve a high degree of traffic concentration on State highways, and which cannot be funded from regular budgeted items. This authorization applies only to events which are expected to generate 30,000 vehicles or more per day. The Department of Transportation shall provide for this funding by allocating and reserving up to one hundred thousand dollars (\$100,000) before any other allocations from the appropriations for State maintenance for primary, secondary, and urban road systems are made, based upon the same proportion as is appropriated to each system."

Requested by: Senator Jordan, Representatives Bowie, Dockham, McMahan
DRIVERS EDUCATION FUNDING

Section 32.6. From funds appropriated by this act to the Department of Transportation, the Department shall pay for the increased costs for

drivers education due to the projected increase in average daily membership in the ninth grade drivers education program.

In allocating funds for driver training, the State Board of Education shall consider the needs of small and low-wealth local school administrative units.

Requested by: Senator Jordan, Representatives Bowie, Dockham, McMahan
BRANCH AGENT REIMBURSEMENT RATE

Section 32.7. (a) G.S. 20-63(h) reads as rewritten:

"(h) Commission Contracts for Issuance of Plates and Certificates. -- All registration plates, registration certificates and certificates of title issued by the Division, outside of those issued from the Raleigh offices of the said Division and those issued and handled through the United States mail, shall be issued insofar as practicable and possible through commission contracts entered into by the Division for the issuance of such plates and certificates in localities throughout North Carolina with persons, firms, corporations or governmental subdivisions of the State of North Carolina and the Division shall make a reasonable effort in every locality, except as hereinbefore noted, to enter into a commission contract for the issuance of such plates and certificates and a record of these efforts shall be maintained in the Division. In the event the Division is unsuccessful in making commission contracts as hereinbefore set out it shall then issue said plates and certificates through the regular employees of the Division. Whenever registration plates, registration certificates and certificates of title are issued by the Division through commission contract arrangements, the Division shall provide proper supervision of such distribution. Commission contracts entered under this subsection shall provide for the payment of compensation at a rate of sixty cents (60¢) per transaction for all transactions as set forth below. Nothing contained in this subsection will allow or permit the operation of fewer outlets in any county in this State than are now being operated.

A transaction is any of the following activities:

- (1) Issuance of a registration plate, a registration card, a registration renewal sticker, or a certificate of title.
- (2) Issuance of a handicapped placard or handicapped identification card.
- (3) Acceptance of an application for a personalized registration plate.
- (4) Acceptance of a surrendered registration plate, registration card, or registration renewal sticker, or acceptance of an affidavit stating why a person cannot surrender a registration plate, registration card, or registration renewal sticker.
- (5) Cancellation of a title because the vehicle has been junked.
- (6) Acceptance of an application for, or issuance of, a refund for a fee or a tax, other than the highway use tax.
- (7) Receipt of the civil penalty imposed by G.S. 20-309 for a lapse in financial responsibility or receipt of the restoration fee imposed by that statute.
- (8) Acceptance of a notice of failure to maintain financial responsibility for a motor vehicle.

(9) Collection of the highway use tax.

Performance at the same time of any combination of the items that are listed within each subdivision or are listed within subdivisions (1) through (8) of this section is a single transaction for which a dollar and thirty-five cent (\$1.35) compensation shall be paid. Performance of the item listed in subdivision (9) of this subsection in combination with any other items listed in this subsection is a separate transaction for which a one dollar and twenty cent (\$1.20) compensation shall be paid."

(b) The Department of Transportation shall develop performance measures for commission agent contracts, entered into pursuant to G.S. 20-63(h), as a basis for judging compliance with those contracts. The Department shall report on the performance measures to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division by December 1, 1997. No performance measures shall be implemented prior that review.

(c) Subsection (a) of this section becomes effective July 1, 1997.

Requested by: Senator Jordan, Representatives Bowie, Dockham, McMahan
**INTERNATIONAL REGISTRATION PLAN BUDGET CODE MERGED
 INTO VEHICLE REGISTRATION BUDGET CODE**

Section 32.8. Within Budget Code 84260 (Division of Motor Vehicles), fund 0560 (International Registration Plan Section) shall be merged into fund 0520 (Vehicle Registration).

Requested by: Senator Jordan, Representatives Bowie, Dockham, McMahan
**PRIVATIZATION OF THE SCHOOL BUS DRIVER TRAINING
 PROGRAM**

Section 32.9. The Department of Transportation shall prepare a plan for the privatization of school bus driver training. This plan shall include, but not be limited to the following:

- (1) A full description of the school bus driver training activities carried out by the Department.
- (2) An accounting of all costs, both personnel and nonpersonnel costs, to the Department related to school bus driver training.
- (3) A list of all Department positions performing functions related to school bus driver training and the portion of time that each position devotes to these functions.
- (4) A draft request for proposals for private contracts to provide all school bus driver training services.
- (5) An estimate of the cost of private contracts to provide all school bus driver training services and an explanation of how that estimate was developed.
- (6) A detailed estimate of the projected cost to the Department to administer contracts for school bus driver training.
- (7) A schedule for issuing a contract for school bus driver training and a schedule for the elimination of Department positions and expenditures related to that training.

Copies of the plan shall be provided to the Chairs of the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division by March 1, 1998.

Requested by: Senator Jordan, Representatives Bowie, Dockham, McMahan
HIGHWAY FUND LIMITATIONS ON OVEREXPENDITURES

Section 32.10. (a) Overexpenditures from Section 3 of this act may be made by authorization of the Director of the Budget,

Titles:

State Construction Primary Construction

State Construction Urban Construction

Spot Safety Construction

State Construction Access and Public Service Roads

State Funds to Match Federal Highway Aid

State Maintenance

Ferry Operations,

provided that there are corresponding underexpenditures from these same Titles. Overexpenditures or underexpenditures in any Titles shall not vary by more than ten percent (10%) without prior consultation with the Advisory Budget Commission. Written reports covering overexpenditures or underexpenditures of more than ten percent (10%) shall be made to the Joint Legislative Transportation Oversight Committee. The reports shall be delivered to the Director of the Fiscal Research Division not less than 96 hours prior to the beginning of the Commission's full meeting.

(b) Overexpenditures from Section 3 of this act,

Titles:

State Construction Primary Construction

State Construction Urban Construction

Spot Safety Construction

State Construction Access and Public Service Roads

State Funds to Match Federal Highway Aid

State Maintenance

Ferry Operations,

for the purpose of providing additional positions shall be approved by the Director of the Budget and shall be reported on a quarterly basis to the Joint Legislative Transportation Oversight Committee and to the Fiscal Research Division.

Requested by: Senator Jordan, Representatives Bowie, Dockham, McMahan
**DEPARTMENT OF TRANSPORTATION EXEMPTION FROM
GENERAL STATUTES FOR EXPERIMENTAL PROJECT-
CONGESTION MANAGEMENT**

Section 32.11. The Department of Transportation may enter into a design-build-warrant contract to develop, with Federal Highway Administration participation under The 1991 Intermodal Surface Transportation Efficiency Act, Title VI, Part B, Sections 6051-6059, a "Congestion Avoidance and Reduction for Autos and Trucks (CARAT)" system of traffic management for the greater Charlotte-Mecklenburg urban areas. Notwithstanding any other provision of law, contractors, contractors'

employees, and Department of Transportation employees involved in this project only do not have to be licensed by occupational licensing boards as "license" and "occupational licensing board" are defined in G.S. 93B-1; and for the purpose of entering into contracts, the Department of Transportation is exempted from the provisions of the following General Statutes: G.S. 136-28.1, 143-52, 143-53, 143-58, 143-128, and 143-129. These statutory exemptions are limited and available only to the extent necessary to comply with federal rules, regulations, and policies for completion of this project.

The Department of Transportation shall report quarterly to the Joint Legislative Transportation Oversight Committee on its efforts to enter into a design-build-warrant contract and to award and construct the project. The report shall include, but not be limited to, the number of types of firms bidding on the project, special qualifications of the firms bidding, and the effect statutory exemptions might have had on the award and construction of the project and the receipt of federal discretionary funding for the project.

Requested by: Senator Jordan, Representatives Bowie, Dockham, McMahan
RESURFACED ROADS MAY BE WIDENED

Section 32.12. Chapter 136 of the General Statutes is amended by adding a new section to read:

"§ 136-44.16. Resurfaced roads may be widened.

Of the contract maintenance resurfacing program funds appropriated by the General Assembly to the Department of Transportation, an amount not to exceed fifteen percent (15%) of the Board of Transportation's allocation of these funds may be used for widening existing narrow pavements that are scheduled for resurfacing."

Requested by: Senator Jordan, Representatives Bowie, Dockham, McMahan
CASH FLOW HIGHWAY FUND AND HIGHWAY TRUST FUND APPROPRIATIONS

Section 32.13. The General Assembly authorizes and certifies anticipated revenues of the Highway Fund as follows:

FY 1999-2000	\$1,182.2 million
FY 2000-2001	\$1,211.2 million
FY 2001-2002	\$1,241.2 million
FY 2002-2003	\$1,271.9 million

The General Assembly authorizes and certifies anticipated revenues of the Highway Trust Fund as follows:

FY 1999-2000	\$861.7 million
FY 2000-2001	\$891.0 million
FY 2001-2002	\$921.6 million
FY 2002-2003	\$953.3 million

Requested by: Senator Jordan, Representatives Bowie, Dockham, McMahan
F.E.M.A. RECEIVABLES

Section 32.14. The Department of Transportation shall report to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division by March 1, 1998, on the status of Federal Emergency

Management Agency receivables for past natural disasters and the efforts by the State to collect those funds from the federal government.

Requested by: Senator Jordan, Representatives Bowie, Dockham, McMahan, Hiatt

FEASIBILITY STUDY OF DRIVERS EDUCATION TESTING

Section 32.15. The Department of Transportation and the Department of Public Instruction shall conduct a study of the feasibility of having drivers education instructors, rather than Division of Motor Vehicles examiners, administer the required written and road tests before a student is issued his or her first drivers permit or license.

The Department of Transportation shall report to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division by March 1, 1998, on the results of this feasibility study along with any enabling legislation necessary to implement any recommended changes.

Requested by: Senator Jordan, Representatives Bowie, Dockham, McMahan
GLOBAL TRANSPARK AUTHORITY BUSINESS PLAN FOR DISADVANTAGED BUSINESS PARTICIPATION

Section 32.16. The Global TransPark Authority shall develop a business plan for meeting its ten percent (10%) goal for disadvantaged business participation in contracting. The Global TransPark Authority shall submit a copy of that business plan to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division by March 1, 1998.

Requested by: Senator Jordan, Representatives Bowie, Dockham, McMahan
USE OF PUBLIC TRANSPORTATION AND PASSENGER RAIL FUNDING

Section 32.17. The Department of Transportation shall prepare a plan for the use of the expansion funds provided in this act for the improvement of public transportation and passenger rail service. This plan shall set out the specific purposes for which the funds will be used and shall set specific, quantitative goals to be met through the use of the additional funds.

The goals shall address the following:

- (1) Travel time, cost recovery, and business ridership of passenger rail service between Raleigh and Charlotte;
- (2) Extension of passenger rail service to Asheville;
- (3) Assessment of the feasibility and costs of extending passenger rail service in Eastern North Carolina;
- (4) Increases in the number of routes served by rural, urban, and regional public transportation systems;
- (5) Increases in ridership for rural, urban, and regional public transportation systems;
- (6) Public transportation service to Work First clients; and
- (7) Cost savings achieved by rural, urban, and regional public transportation systems through the use of new technologies.

The Department of Transportation shall present this plan to the Joint Legislative Transportation Oversight Committee by October 1, 1997, and

shall make a report to the 1999 session of the General Assembly indicating the Department's performance in meeting the goals set forth in the plan.

Requested by: Senator Jordan, Representatives Bowie, Dockham, McMahan
FEDERAL FUNDS FOR PUBLIC TRANSPORTATION IMPROVEMENTS

Section 32.18. To the extent allowable by federal law, the Department of Transportation shall use ten million dollars (\$10,000,000) of federal highway funds for improvements to public transportation.

Requested by: Senator Jordan, Representatives Bowie, Dockham, McMahan
BIENNIAL REPORT ON MAINTENANCE REQUIREMENTS

Section 32.19. G.S. 136-44.3 reads as rewritten:

~~"§ 136-44.3. Annual maintenance program; State primary and urban systems. Maintenance program.~~

~~The Department of Transportation shall make a study of the maintenance needs and costs of the State primary and urban systems. On the basis of the costs and proposed appropriations, the Department of Transportation shall develop a statewide annual maintenance program for the State primary and urban systems which shall be subject to the approval of the Board of Transportation and shall take into consideration the general maintenance needs, the special maintenance needs and vehicular traffic and other factors deemed pertinent. The Department of Transportation, from time to time, shall restudy the costs and criteria used as a basis for its annual maintenance program. Copies of the annual maintenance program shall be made available to any member of the General Assembly upon request. Each division engineer, at the end of the fiscal year, shall certify the maintenance of highways in his division in accordance with the annual work program, along with the explanations of any deviations.~~

In each even-numbered year, the Department of Transportation shall survey the condition of the State highway system and shall prepare a report of the findings of the survey. The report shall provide both quantitative and qualitative descriptions of the condition of the system and shall provide estimates of the following:

- (1) The annual cost of routine maintenance of the State highway system;
- (2) The cost of eliminating any maintenance backlog by categories of maintenance requirements;
- (3) The annual cost to resurface the State highway system based upon a 12-year repaving cycle for the primary system and a 15-year cycle for other highways; and
- (4) The cost of eliminating any resurfacing backlog, by type of system.

On the basis of the report, the Department of Transportation shall develop a statewide annual maintenance program for the State highway system, which shall be subject to the approval of the Board of Transportation and shall take into consideration the general maintenance needs, special maintenance needs, vehicular traffic, and other factors deemed pertinent.

Each division engineer, at the end of the fiscal year, shall certify the maintenance of highways in his division in accordance with the annual work program, along with an explanation for any deviations.

The report on the condition of the State highway system and the annual maintenance program shall be presented to the Joint Legislative Transportation Oversight Committee by November 30 of each even-numbered year, and copies shall be made available to any member of the General Assembly upon request."

Requested by: Senator Jordan, Representatives Bowie, Dockham, McMahan
GRADUATED DRIVERS LICENSE PROGRAM

Section 32.20. Section 11 of S.L. 1997-16 reads as rewritten:

"Section 11. This act becomes effective December 1, 1997, ~~if the General Assembly appropriates the necessary funds from the Highway Fund to the Department of Transportation, Division of Motor Vehicles, to administer the provisional license program.~~ 1997. Sections 1 through 7 of this act do not apply to any person who holds a valid North Carolina limited learner's permit issued before the effective date of this act, who holds a valid North Carolina learner's permit issued before the effective date of this act, or who is a provisional licensee and holds a valid North Carolina drivers license issued before the effective date of this act."

Requested by: Senators Perdue, Plyler, Odom, Representatives Russell, G. Wilson

HIGHWAY PATROL--UNDERGROUND FUEL TANK REMOVAL AND REMEDIATION FUNDS

Section 32.21. Notwithstanding any other provision of law, of the unreserved credit balance in the Highway Fund available on July 1, 1997, six hundred fifty thousand dollars (\$650,000) shall be used for the removal and replacement of underground fuel storage tanks located at various State Highway Patrol installations across the State.

Requested by: Senators Odom, Perdue, Plyler, Jordan, Hoyle, Rucho, Representatives Bowie, Dockham, McMahan

OREGON INLET STABILIZATION PROJECT STUDY

Section 32.22. The Legislative Research Commission shall study the stabilization of the Oregon Inlet. The Commission shall hold hearings to receive public input on the potential benefits of stabilizing the inlet and consider the alternative procedures and actions for the stabilization of the inlet along with the environmental, economic, governmental, and cultural costs and benefits that may result from the stabilization.

In making appointments of members to the Oregon Inlet Stabilization Study Committee, the Commission shall include, but not be limited to, representatives of commercial and sports fishing operations, the Coastal Area Management Commission, and conservationists.

In analyzing the benefits and costs in stabilizing the Oregon Inlet, the Study Committee shall employ the expertise of the Departments of Environment, Health, and Natural Resources, Transportation, and Justice and shall solicit the assistance of the U.S. Army Corps of Engineers.

The Study Committee shall submit a report to the 1998 Session of the General Assembly including proposals for further action by the General Assembly including, but not limited to:

- (1) Additional detailed studies of the Oregon Inlet Stabilization, providing a long-range plan for the stabilization of the inlet and a projection for the future costs of that stabilization;
- (2) Necessary statutory changes needed to implement a planned inlet stabilization;
- (3) Alternatives to the stabilization of the Oregon Inlet; and
- (4) Funding sources for stabilization projects and studies.

Requested by: Representatives Bowie, Dockham, McMahan, Senators Jordan, Hoyle, Rucho

DEPARTMENT OF TRANSPORTATION MINORITY- AND WOMEN-OWNED BUSINESS PARTICIPATION PLAN

Section 32.23. The Department of Transportation shall develop a plan for meeting its goals for minority- and women-owned business participation in construction and supply contracts. The Department of Transportation shall submit a copy of that plan to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division by December 1, 1997.

Requested by: Representatives Bowie, Dockham, McMahan, Senators Jordan, Hoyle, Rucho

CONTAMINATED PROPERTY REMEDIATION

Section 32.24. Of the funds appropriated to the Department of Transportation for the State's participation in the cleanup of the 601 Bypass Superfund site, any amounts not required for this purpose may be used by the Department for participation in the cleanup of other contaminated sites currently or previously owned or contaminated by the Department. These funds may be used for: (i) site assessments; (ii) site remediation; (iii) settlements of lawsuits, administrative actions, or claims; or (iv) administrative costs.

Requested by: Representatives Bowie, Dockham, McMahan, Senators Plyler, Jordan, Hoyle, Rucho

FEDERAL DRIVERS PRIVACY PROTECTION ACT

Section 32.25. (a) Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-43.1. Disclosure of personal information in motor vehicle records.

The Division shall disclose personal information contained in motor vehicle records in accordance with the federal Driver's Privacy Protection Act of 1994, as amended, 18 U.S.C. §§ 2721, et seq.

As authorized in 18 U.S.C. § 2721, the Division shall not disclose personal information for the purposes specified in 18 U.S.C. § 2721(b)(11) or establish a waiver procedure described in 18 U.S.C. § 2721(d). The Division shall establish procedures to disclose personal information for the purposes and in the manner described in 18 U.S.C. § 2721(b)(12) for titles and applications for leased vehicles issued on and after July 1, 1998."

(b) G.S. 20-26(c) reads as rewritten:

"(c) The Division shall furnish copies of license records required to be kept by subsection (a) of this section in accordance with G.S. 20-43.1 to other persons for uses other than official upon prepayment of the following fees:

- (1) Limited extract copy of license record,
for period up to three years\$5.00
- (2) Complete extract copy of license record 5.00
- (3) Certified true copy of complete license
record..... 7.00.

All fees received by the Division under this subsection shall be credited to the Highway Fund."

(c) G.S. 20-27(a) reads as rewritten:

"(a) All records of the Division pertaining to application and to drivers' licenses, except the confidential medical report referred to in G.S. 20-7, of the current or previous five years shall be open to public inspection in accordance with G.S. 20-43.1, at any reasonable time during office hours and copies shall be provided pursuant to the provisions of G.S. 20-26."

(d) G.S. 20-43(a) reads as rewritten:

"(a) All records of the Division, other than those declared by law to be confidential for the use of the Division, shall be open to public inspection during office hours. hours in accordance with G.S. 20-43.1. A photographic image or signature recorded in any format by the Division for a drivers license or a special identification card is confidential and shall not be released except for law enforcement purposes."

Requested by: Representatives Bowie, Dockham, McMahan, Senators Jordan, Hoyle, Rucho

SALVAGE VEHICLE INSPECTIONS

Section 32.26. G.S. 20-71.3 reads as rewritten:

"§ 20-71.3. *Titles and registration cards to be branded.*

Motor Vehicle certificates of title and registration cards issued pursuant to G.S. 20-57 shall be branded. As used herein 'branded' means that the title and registration card shall contain a designation that discloses if the vehicle is classified as (a) Flood Vehicle, (b) Non-U.S.A. Vehicle, (c) Reconstructed Vehicle, (d) Salvage Motor Vehicle, or (e) Salvage Rebuilt Vehicle or other classification authorized by law. Any motor vehicle up to six model years old damaged by collision or other occurrence which is to be retitled in this State shall be subject to preliminary and final inspections by the Enforcement Section of the Division, and the Division shall refuse to issue a title to a vehicle up to six model years old which has not undergone a preliminary inspection. These inspections serve as an anti theft measure and do not certify the safety or roadworthiness of a vehicle. Any motor vehicle which has been branded in another state shall be branded with the nearest applicable brand specified in this section, except that no junk vehicle or vehicle that has been branded junk in another state shall be titled or registered. A motor vehicle titled in another state and damaged by collision or other occurrence may be repaired and an unbranded title issued in North Carolina only if the cost of repairs, including parts and labor, does not

exceed seventy-five percent (75%) of its fair market retail value. The Commissioner shall prepare necessary forms and may adopt regulations required to carry out the provisions of this Part 3A. The title shall reflect the branding until surrendered to or cancelled by the Commissioner."

Requested by: Representatives Bowie, Dockham, McMahan, Gray, Esposito, Oldham, Womble, Decker, Sexton, Senators Jordan, Hoyle, Rucho
WESTERN PASSENGER RAIL SERVICE ROUTE MAJOR INVESTMENT STUDY

Section 32.27. (a) From funds appropriated to the Department of Transportation for the 1997-98 fiscal year, up to seven hundred fifty thousand dollars (\$750,000) shall be used to fund a Major Investment Study (MIS) which shall include:

- (1) A passenger rail proposal providing service between Asheville and Raleigh through Winston-Salem generally following the I-40 corridor; and
- (2) A passenger rail proposal providing for commuter rail services between Winston-Salem, Greensboro, High Point and outlying communities.

Funds expended for the MIS shall be approved by the Department of Transportation which shall make written reports to the Joint Legislative Transportation Oversight Committee on the progress of the MIS.

(b) Section 3.1 of S.L. 1997-393 House Bill 993 as ratified, reads as rewritten:

"Section 3.1. If The Major Investment Study (MIS) authorized in Senate Bill 352 is as enacted and which provides that funds appropriated to the Department of Transportation for the 1997-98 fiscal year shall be used to fund a Major Investment Study (MIS) which shall include: including:

- (1) A passenger rail proposal providing service between Asheville and Raleigh through Winston-Salem generally following the I-40 corridor; and
- (2) A passenger rail proposal providing for commuter rail services between Winston-Salem, Greensboro, High Point, and outlying communities,

~~then notwithstanding that act, the MIS authorized in~~ shall be administered by the Regional Transportation Authority created under this act which includes Guilford and Forsyth Counties, ~~in consultation with~~ with the approval of the Department of Transportation, and in consultation with the Forsyth County Metropolitan Planning Organization (MPO), the Greensboro MPO, and the High Point MPO."

Requested by: Representatives Bowie, Dockham, McMahan, Reynolds, Senators Jordan, Hoyle, Rucho
CONTRACT AGENT TRANSACTION ANALYSIS AND ON-LINE REGISTRATION FEASIBILITY STUDY

Section 32.29. (a) The Office of Productivity Management in the Administrative Division of the Department of Transportation shall study the transactions performed by tag agents pursuant to the Commission Contracts authorized by G.S. 20-63(h). The study shall:

- (1) Analyze and weigh the relative complexity and time required to complete the various transactions so that a scale can be established to provide reimbursement based on those factors.
- (2) To the extent possible, determine the costs of performing the transactions based on a review of the actual costs of operating a sample of tag agencies across the State.
- (3) To the extent possible, determine the impact on tag agents of any on-line registration program recommended as a result of the study required by subsection (b) of this section.

The Department shall not recommend a particular reimbursement rate for each transaction.

(b) The Division of Motor Vehicles shall study the feasibility of a system that would allow motor vehicle dealers to enter information onto the STARS system that would be necessary for the issuance of certificates of title, registration plates, or both, for new vehicles sold by them.

The report issued by the Division as a result of this study shall include the advisability of a pilot program and any necessary legislation to implement the program, as appropriate.

(c) The results of the studies mandated by this section shall be reported to the Joint Legislative Transportation Oversight Committee by March 1, 1998.

Requested by: Senators Kerr, Jordan, Hoyle, Rucho, Representatives Bowie, Dockham, McMahan

NORTH CAROLINA RAILROAD ACQUISITION

Section 32.30. (a) In order to help promote trade, industry, and transportation within the State of North Carolina and to advance the economic interests of the State and its citizens, the General Assembly finds it advantageous for the State to acquire the outstanding shares of the North Carolina Railroad Company not held by the State.

(b) The sum of sixty-one million dollars (\$61,000,000) of the unreserved General Fund balance as of June 30, 1997, is placed in a Railroad Reserve Account.

(c) Notwithstanding G.S. 147-69.1, if a majority of the outstanding shares held by shareholders other than the State are represented in person or by proxy at a North Carolina Railroad Company shareholder meeting where a plan for merger between the Beaufort and Morehead Railroad Company and the North Carolina Railroad Company is approved, then the State Treasurer shall invest on a one-time basis up to sixty-one million dollars (\$61,000,000) from the reserve account created in subsection (b) of this section in obligations of the Beaufort and Morehead Railroad Company or any successor company. This investment shall be an interest-bearing demand note and shall be in a form prescribed by the State Treasurer. The loan is not subject to repayment of principal or interest prior to action of the 1999 Session of the General Assembly. The Director of the Budget shall recommend to the 1999 Session of the General Assembly, by February 1, 1999, a plan for the repayment of the loan.

(d) Section 54 of Chapter 82 of the Laws of 1848-49, as added by Chapter 1046 of the 1951 Session Laws, reads as rewritten:

"No stock owned by the State of North Carolina in the North Carolina Railroad Company shall be sold or transferred except with the prior consent of the General Assembly. Assembly, except as part of a transaction or series of transactions relating to a plan of merger or consolidation of that company with another company, and where the State will be the owner of all of the voting stock in the merged or consolidated corporation."

(e) In accordance with subsection (d) of this section, the State Treasurer, as part of the plan of merger and consolidation, shall transfer the stock owned by the State of North Carolina in the North Carolina Railroad Company to the Beaufort and Morehead Railroad Company.

(f) G.S. 136-16.6(c) reads as rewritten:

"(c) There is annually appropriated to the Department of Transportation for railroad purposes purposes, including capital contributions to the Beaufort and Morehead Railroad Company or any successor company, one hundred percent (100%) of the funds credited to the Highway Fund pursuant to subsection (a) of this section."

(g) Subsection (f) of this section also applies to funds previously appropriated under G.S. 136-16.6(c).

(h) No monies appropriated for highway construction or maintenance from the Highway Fund, the Highway Trust Fund, or transferred to the Highway Fund under G.S. 136-176(c), may be used by the State of North Carolina or any of its political subdivisions to acquire stock in the North Carolina Railroad Company or make a capital contribution or loan to either that company or the Beaufort and Morehead Railroad Company.

(i) Investments by the State in the Beaufort and Morehead Railroad Company or any successor company shall be recorded in the General Fund, and such evidence of ownership shall be held by the State Treasurer.

(j) Effective July 1, 1999, G.S. 147-12(7) is repealed.

(k) Effective July 1, 1999, G.S. 124-6 reads as rewritten:

"§ 124-6. Appointment of proxies, *director of railroad companies, etc.*

(a) The Governor shall appoint on behalf of the State all such officers or agents as, by any act, incorporating a company for the purpose of internal improvement, are allowed to represent the stock or other interests which the State may have in such company; and such person or persons shall cast the vote to which the State may be entitled in all the meetings of the stockholders of such company under the direction of said Governor; and the said Governor may, if in his opinion the public interest so requires, remove or suspend such persons, officers, agents, proxies, or directors in his discretion.

(b) Notwithstanding subsection (a) of this section, for any railroad company organized as a corporation in which the State is the owner of all the voting stock and which has trackage in more than two counties, five of the members of the Board of Directors shall be appointed by the Governor, two of the members of the Board of Directors shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121, and two of the members of the Board of Directors shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121. Of the Governor's five appointments, three

shall be either an investment banker, a person with railroad management experience, a person on an economic development commission whose region contains track of the company, or an attorney with corporate experience. The remaining two shall be at-large members. The Speaker of the House of Representatives shall recommend two at-large members. The President Pro Tempore of the Senate shall recommend two at-large members. The Board of Directors shall consist of nine members. Of the initial members appointed by the Governor, three shall be appointed for terms of four years and two shall be appointed for terms of two years. Of the initial members recommended to the General Assembly by the Speaker of the House of Representatives, one shall be appointed for a term of four years and one shall be appointed for a term of two years. Of the initial members recommended to the General Assembly by the President Pro Tempore of the Senate, one shall be appointed for a term of four years and one shall be appointed for a term of two years. Thereafter all Board members shall serve four-year terms. The Board shall elect the chairman from among its membership."

(l) Any railroad company covered by G.S. 124-6(b) shall present to the Joint Legislative Transportation Oversight Committee, by November 20, 1998, a business plan for the railroad including, but not limited to:

- (1) A mission statement with goals and objectives;
- (2) Areas and types of services to be provided;
- (3) Pro forma financial statements that cover a five-year period beginning January 1, 1999; and
- (4) Alternative forms of organization.

(m) Upon ownership of all voting stock in the North Carolina Railroad Company by the State of North Carolina, and upon the request of the Board of Directors of the North Carolina Railroad Company, the Public Officers and Employees Liability Insurance Commission shall effect and place coverage for the officers, directors, and employees of the North Carolina Railroad under G.S. 58-32-15. The North Carolina Railroad Company shall pay the premiums for this insurance at rates established by the Commission, and shall make any other payments required by G.S. 143-300.6. Coverage of the officers, directors, and employees of the North Carolina Railroad Company under this subsection shall not be construed as defining the North Carolina Railroad Company as a public body or as defining its officers, directors, or employees as public officials or employees for any other purpose.

PART XXXIII. SALARIES AND BENEFITS

Requested by: Representatives Holmes, Creech, Esposito, Crawford, Senators Plyler, Perdue, Odom

GOVERNOR AND COUNCIL OF STATE/SALARY INCREASES

Section 33. (a) Effective July 1, 1997, G.S. 147-11(a) reads as rewritten:

"(a) The salary of the Governor shall be ~~one hundred three thousand twelve dollars (\$103,012)~~ one hundred seven thousand one hundred thirty-two dollars (\$107,132) annually, payable monthly."

(b) The annual salaries for the members of the Council of State, payable monthly, for the 1997-98 and 1998-99 fiscal years, beginning July 1, 1997, are:

<u>Council of State</u>	<u>Annual Salary</u>
Lieutenant Governor	\$94,552
Attorney General	94,552
Secretary of State	94,552
State Treasurer	94,552
State Auditor	94,552
Superintendent of Public Instruction	94,552
Agriculture Commissioner	94,552
Insurance Commissioner	94,552
Labor Commissioner	94,552.

Requested by: Representatives Holmes, Creech, Esposito, Crawford,
Senators Plyler, Perdue, Odom

NONELECTED DEPARTMENT HEADS/SALARY INCREASES

Section 33.1. In accordance with G.S. 143B-9, the maximum annual salaries, payable monthly, for the nonelected heads of the principal State departments for the 1997-98 and 1998-99 fiscal years, beginning July 1, 1997, are:

<u>Nonelected Department Heads</u>	<u>Annual Salary</u>
Secretary of Administration	\$92,378
Secretary of Correction	92,378
Secretary of Cultural Resources	92,378
Secretary of Commerce	92,378
Secretary of Environment, Health, and Natural Resources	92,378
Secretary of Human Resources	92,378
Secretary of Revenue	92,378
Secretary of Transportation	92,378
Secretary of Crime Control and Public Safety	92,378.

Requested by: Representatives Holmes, Creech, Esposito, Crawford,
Senators Plyler, Perdue, Odom

CERTAIN EXECUTIVE BRANCH OFFICIALS/SALARY INCREASES

Section 33.2. The annual salaries, payable monthly, for the 1997-98 and 1998-99 fiscal years, beginning July 1, 1997, for the following executive branch officials are:

<u>Executive Branch Officials</u>	<u>Annual Salary</u>
Chairman, Alcoholic Beverage Control Commission	\$ 84,080
State Controller	117,669

Commissioner of Motor Vehicles	84,080
Commissioner of Banks	94,552
Chairman, Employment Security Commission	117,520
State Personnel Director	92,378
Chairman, Parole Commission	76,775
Members of the Parole Commission	70,881
Chairman of the Utilities Commission	95,592
Commissioners of the Utilities Commission	94,552
Executive Director, Agency for Public Telecommunications	70,881
General Manager, Ports Railway Commission	64,005
Director, Museum of Art	86,155
Executive Director, Wildlife Resources Commission	72,569
Executive Director, North Carolina Housing Finance Agency	104,057
Executive Director, North Carolina Agricultural Finance Authority	81,839
Director, Office of Administrative Hearings	83,141

Requested by: Representatives Holmes, Creech, Esposito, Crawford, Russell, Senators Plyler, Perdue, Odom

SALARY OF THE CHAIRMAN OF THE EMPLOYMENT SECURITY COMMISSION

Section 33.3. Effective July 1, 1997, G.S. 96-3(c) reads as rewritten:

"(c) Salaries. -- The chairman of the Employment Security Commission of North Carolina, appointed by the Governor, shall be paid from the Employment Security Administration Fund a salary payable on a monthly basis, which salary shall be fixed by the ~~appointing officer in an amount no higher than the highest salary set by the General Assembly for an executive branch official; and~~ General Assembly in the Current Operations Appropriations Act; and the members of the Commission, other than the chairman, shall each receive the same amount per diem for their services as is provided for the members of other State boards, commissions, and committees who receive compensation for their services as such, including necessary time spent in traveling to and from his place of residence within the State to the place of meeting while engaged in the discharge of the duties of his office and his actual traveling expenses, the same to be paid from the aforesaid fund."

Requested by: Senators Plyler, Perdue, Odom, Rand, Representatives Holmes, Creech, Esposito

SALARIES OF MEMBERS AND CHAIR OF THE INDUSTRIAL COMMISSION

Section 33.4. Effective July 1, 1997, G.S. 97-78(a) reads as rewritten:

"(a) ~~The salaries of the chairman and each of the other commissioners shall be fixed by the General Assembly in the Current Operations Appropriations Act. The salary of each commissioner shall be the same as that fixed from time to time for district attorneys except that the~~

commissioner designated as chair shall receive one thousand five hundred dollars (\$1,500) additional per annum."

Requested by: Representatives Holmes, Creech, Esposito, Crawford,
Senators Plyler, Perdue, Odom

SALARIES OF MEMBERS AND CHAIR OF THE UTILITIES COMMISSION

Section 33.5. Effective July 1, 1997, G.S. 62-10(h) reads as rewritten:

"(h) ~~The salary of each commissioner shall be the same as that fixed from time to time for judges of the superior court except that the commissioner designated as the chairman shall receive one thousand dollars (\$1,000) additional per annum, and that of the commissioner designated as chairman shall be set by the General Assembly in the Current Operations Appropriations Act.~~ In lieu of merit and other increment raises paid to regular State employees, each commissioner, including the commissioner designated as chairman, shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, and nine and six-tenths percent (9.6%) after 10 years of service. 'Service' means service as a member of the Utilities Commission."

Requested by: Senators Plyler, Perdue, Odom, Representatives Holmes, Creech, Esposito, Crawford

TEMPORARY SALES TAX TRANSFER FOR WILDLIFE RESOURCES COMMISSION SALARY INCREASES

Section 33.6. For the 1997-98 and 1998-99 fiscal years, the Secretary of Revenue shall transfer at the end of each quarter from the State sales and use tax net collections received by the Department of Revenue under Article 5 of Chapter 105 of the General Statutes to the State Treasurer for the Wildlife Resources Fund to fund the cost of any legislative salary increase for employees of the Wildlife Resources Commission.

Requested by: Representatives Holmes, Creech, Esposito, Crawford,
Senators Plyler, Perdue, Odom

JUDICIAL BRANCH OFFICIALS/SALARY INCREASES

Section 33.7. (a) The annual salaries, payable monthly, for specified judicial branch officials for the 1997-98 and 1998-99 fiscal years, beginning July 1, 1997, are:

<u>Judicial Branch Officials</u>	<u>Annual Salary</u>
Chief Justice, Supreme Court	\$107,132
Associate Justice, Supreme Court	104,333
Chief Judge, Court of Appeals	101,724
Judge, Court of Appeals	99,986
Judge, Senior Regular Resident Superior Court	97,269
Judge, Superior Court	94,552
Chief Judge, District Court	85,857

Judge, District Court	83,141
District Attorney	87,596
Administrative Officer of the Courts	97,269
Assistant Administrative Officer of the Courts	81,684
Public Defender	87,596.

(b) The district attorney or public defender of a judicial district, with the approval of the Administrative Officer of the Courts, shall set the salaries of assistant district attorneys or assistant public defenders, respectively, in that district such that the average salaries of assistant district attorneys or assistant public defenders in that district do not exceed fifty-three thousand eight hundred eighty-three dollars (\$53,883) and the minimum salary of any assistant district attorney or assistant public defender is at least twenty-seven thousand five hundred nine dollars (\$27,509), effective July 1, 1997.

(c) The salaries in effect for the 1996-97 fiscal year on June 30, 1997, for permanent, full-time employees of the Judicial Department, except for those whose salaries are itemized in this Part, shall be increased by four percent (4%), commencing July 1, 1997.

(d) The salaries in effect on June 30, 1997, for all permanent, part-time employees of the Judicial Department shall be increased on and after July 1, 1997, by pro rata amounts of four percent (4%).

Requested by: Representatives Ives, McCombs, Sherrill, Senators Plyler, Perdue, Odom

ADMINISTRATIVE LAW JUDGE SALARY

Section 33.8. Effective July 1, 1997, G.S. 7A-751, as amended by Section 11 of S.L. 1997-34, reads as rewritten:

"§ 7A-751. Agency head; powers and duties. duties; salaries of Chief Administrative Law Judge and other administrative law judges.

(a) The head of the Office of Administrative Hearings is the Chief Administrative Law Judge, who shall serve as Director of the Office. The Chief Administrative Law Judge has the powers and duties conferred on that position by this Chapter and the Constitution and laws of this State and may adopt rules to implement the conferred powers and duties.

The salary of the Chief Administrative Law Judge shall be ~~fixed by the General Assembly in the Current Operations Appropriations Act.~~ the same as that fixed from time to time for district court judges.

In lieu of merit and other increment raises, the Chief Administrative Law Judge shall receive longevity pay on the same basis as is provided to employees of the State who are subject to the State Personnel Act.

(b) The salary of other administrative law judges shall be ninety percent (90%) of the salary of the Chief Administrative Law Judge.

In lieu of merit and other increment raises, an administrative law judge shall receive longevity pay on the same basis as is provided to employees who are subject to the State Personnel Act."

Requested by: Representatives Holmes, Creech, Esposito, Crawford, Senators Plyler, Perdue, Odom

CLERKS OF SUPERIOR COURT/SALARY INCREASES

Section 33.9. Effective July 1, 1997, G.S. 7A-101(a) reads as rewritten:

"(a) The clerk of superior court is a full-time employee of the State and shall receive an annual salary, payable in equal monthly installments, based on the population of the county as determined in subsection (a1) of this section, according to the following schedule:

Population	Annual	Salary
Less than 100,000	\$60,265	\$62,676
100,000 to 149,999	67,695	70,403
150,000 to 249,999	75,125	78,130
250,000 and above	82,555	85,857

The salary schedule in this subsection is intended to represent the following percentage of the salary of a chief district court judge:

Less than 100,000	73%
100,000 to 149,999	82%
150,000 to 249,999	91%
250,000 and above	100%.

When a county changes from one population group to another, the salary of the clerk shall be changed, on July 1 of the fiscal year for which the change is reported, to the salary appropriate for the new population group, except that the salary of an incumbent clerk shall not be decreased by any change in population group during his continuance in office."

Requested by: Senators Plyler, Perdue, Odom, Representatives Holmes, Creech, Esposito, Crawford

ASSISTANT AND DEPUTY CLERKS OF SUPERIOR COURT/SALARY INCREASES

Section 33.10. (a) Effective July 1, 1997, those State employees whose salaries are determined by G.S. 7A-102 shall receive across-the-board salary increases in the amount of four percent (4%) in lieu of step increases associated with their respective pay plans.

(b) Effective July 1, 1997, G.S. 7A-102(c1) reads as rewritten:

"(c1) A full-time assistant clerk or a full-time deputy clerk, and up to one full-time deputy clerk serving as head bookkeeper per county, shall be paid an annual salary subject to the following minimum and maximum rates:

Assistant Clerks and Head Bookkeeper	Annual Salary	
Minimum	\$22,519	\$23,420
Maximum	39,871	41,466

Deputy Clerks	Annual Salary	
Minimum	\$18,004	18,724
Maximum	30,712	31,940."

Requested by: Senators Plyler, Perdue, Odom, Representatives Holmes, Creech, Esposito, Crawford

MAGISTRATES/SALARY INCREASES

Section 33.11. Effective July 1, 1997, magistrates shall receive salary increases in the amount of four percent (4%), except that any person entitled

to a step increase pursuant to G.S. 7A-171.1 for the 1997-98 fiscal year shall not receive the four percent increase provided by this act.

Requested by: Representatives Holmes, Creech, Esposito, Crawford, Justus, Kiser, Thompson, Senators Plyler, Perdue, Odom

ASSISTANT CLERKS OF SUPERIOR COURT/SALARY RANGE

Section 33.12. G.S. 7A-102(d) reads as rewritten:

"(d) Full-time assistant clerks, licensed to practice law in North Carolina, who are employed in the office of superior court clerk on and after July 1, 1984, and full-time assistant clerks possessing a masters degree in business administration, public administration, accounting, or other similar discipline from an accredited college or university who are employed in the office of superior court clerk on and after July 1, 1997, are authorized an annual salary of not less than three-fourths of the maximum annual salary established for assistant clerks; the clerk of superior court, with the approval of the Administrative Office of the Courts, may establish a higher annual salary but that salary shall not be higher than the maximum annual salary established for assistant clerks. Full-time assistant clerks, holding a law degree from an accredited law school, who are employed in the office of superior court clerk on and after July 1, 1984, are authorized an annual salary of not less than two-thirds of the maximum annual salary established for assistant clerks; the clerk of superior court, with the approval of the Administrative Office of the Courts, may establish a higher annual salary, but the entry-level salary may not be more than three-fourths of the maximum annual salary established for assistant clerks, and in no event may be higher than the maximum annual salary established for assistant clerks. The entry-level annual salary for all other assistant and deputy clerks employed on and after July 1, 1984, shall be at the minimum rates as herein established."

Requested by: Representatives Holmes, Creech, Esposito, Crawford, Senators Plyler, Perdue, Odom

GENERAL ASSEMBLY PRINCIPAL CLERKS/SALARY INCREASES

Section 33.13. Effective July 1, 1997, G.S. 120-37(c) reads as rewritten:

"(c) The principal clerks shall be full-time officers. Each principal clerk shall be entitled to other benefits available to permanent legislative employees and shall be paid an annual salary of ~~fifty-seven thousand five hundred fifty-nine dollars (\$57,559)~~ fifty-nine thousand eight hundred sixty-one dollars (\$59,861) payable monthly. The Legislative Services Commission shall review the salary of the principal clerks prior to submission of the proposed operating budget of the General Assembly to the Governor and Advisory Budget Commission and shall make appropriate recommendations for changes in those salaries. Any changes enacted by the General Assembly shall be by amendment to this paragraph."

Requested by: Representatives Holmes, Creech, Esposito, Crawford, Senators Plyler, Perdue, Odom

SERGEANT-AT-ARMS AND READING CLERKS

Section 33.14. Effective July 1, 1997, G.S. 120-37(b) reads as rewritten:

"(b) The sergeant-at-arms and the reading clerk in each house shall be paid a salary of ~~two hundred forty-eight dollars (\$248.00) per week~~ two hundred fifty-eight dollars (\$258.00) per week plus subsistence at the same daily rate provided for members of the General Assembly, plus mileage at the rate provided for members of the General Assembly for one round trip only from their homes to Raleigh and return. The sergeants-at-arms shall serve during sessions of the General Assembly and at such time prior to the convening of, and subsequent to adjournment or recess of, sessions as may be authorized by the Legislative Services Commission. The reading clerks shall serve during sessions only."

Requested by: Representatives Holmes, Creech, Esposito, Crawford,
Senators Plyler, Perdue, Odom

LEGISLATIVE EMPLOYEES/SALARY INCREASES

Section 33.15. The Legislative Administrative Officer shall increase the salaries of nonelected employees of the General Assembly in effect for fiscal year 1996-97 by four percent (4%). Nothing in this act limits any of the provisions of G.S. 120-32.

Requested by: Representatives Holmes, Creech, Esposito, Crawford,
Senators Plyler, Perdue, Odom

COMMUNITY COLLEGES PERSONNEL/SALARY INCREASES

Section 33.16. The Director of the Budget shall transfer from the Reserve for Salary Increases created in this act for fiscal year 1997-98 funds to the Department of Community Colleges necessary to provide an average annual salary increase of four percent (4%), including funds for the employer's retirement and social security contributions, commencing July 1, 1997, for all permanent full-time community college institutional personnel supported by State funds. The State Board of Community Colleges shall establish guidelines for providing their salary increases to community college institutional personnel to include consideration of increases based on performance. Salary funds shall be used to provide an average annual salary increase of four percent (4%) to all full-time employees and part-time employees on a pro rata basis.

Requested by: Representatives Holmes, Creech, Esposito, Crawford,
Senators Plyler, Perdue, Odom

UNIVERSITY OF NORTH CAROLINA SYSTEM - EPA SALARY INCREASES

Section 33.17. (a) The Director of the Budget shall transfer to the Board of Governors of The University of North Carolina sufficient funds from the Reserve for Compensation Increase created in this act for fiscal year 1997-98 to provide an annual average salary increase of four percent (4%), including funds for the employer's retirement and social security contributions, commencing July 1, 1997, for all employees of The University of North Carolina, as well as employees other than teachers of the North Carolina School of Science and Mathematics, supported by State

funds and whose salaries are exempt from the State Personnel Act (EPA). These funds shall be allocated to individuals according to the rules adopted by the Board of Governors, or the Board of Trustees of the North Carolina School of Science and Mathematics, as appropriate, and shall not be used for any purpose other than for salary increases and necessary employer contributions provided by this section. The Board of Governors shall include consideration of increases based on performance in its adoption of rules for the allocation of funds for salary increases.

(b) The Director of the Budget shall transfer to the Board of Governors of The University of North Carolina sufficient funds from the Reserve for Salary Increases created in this act for fiscal year 1997-98 to provide an annual average salary increase comparable to that provided in this act for public school teachers, including funds for the employer's retirement and social security contributions, commencing July 1, 1997, for all teaching employees of the North Carolina School of Science and Mathematics, supported by State funds and whose salaries are exempt from the State Personnel Act (EPA). These funds shall be allocated to individuals according to the rules adopted by the Board of Trustees of the North Carolina School of Science and Mathematics and shall not be used for any purpose other than for salary increases and necessary employer contributions provided by this section.

Requested by: Representatives Holmes, Creech, Esposito, Crawford, Senators Plyler, Perdue, Odom

MOST STATE EMPLOYEES/SALARY INCREASES

Section 33.18. (a) The salaries in effect June 30, 1997, of all permanent full-time State employees whose salaries are set in accordance with the State Personnel Act, and who are paid from the General Fund or the Highway Fund shall be increased, on or after July 1, 1997, unless otherwise provided by this act, pursuant to the Comprehensive Compensation System set forth in G.S. 126-7 and rules adopted by the State Personnel Commission, as follows:

(1) Career growth recognition awards in the amount of two percent (2%); and

(2) A cost-of-living adjustment in the amount of two percent (2%).

Notwithstanding G.S. 126-7(4a), any permanent full-time State employee whose salary is set in accordance with the State Personnel Act and whose salary is at the top of the salary range or within two percent of the top of the salary range shall receive a one-time bonus of two percent (2%) less the career growth recognition award the employee receives. The employee shall receive the career growth bonus at the time the employee is eligible for the career growth recognition award, but not earlier than July 1, 1997.

(b) Except as otherwise provided in this act, salaries in effect June 30, 1997, for permanent full-time State officials and persons in exempt positions that are recommended by the Governor or the Governor and the Advisory Budget Commission and set by the General Assembly shall be increased by four percent (4%), commencing July 1, 1997.

(c) The salaries in effect June 30, 1997, for all permanent part-time State employees shall be increased on and after July 1, 1997, by pro rata

amounts of the salary increases provided for permanent full-time employees covered under subsection (a) of this section.

(d) The Director of the Budget may allocate out of special operating funds or from other sources of the employing agency, except tax revenues, sufficient funds to allow a salary increase on and after July 1, 1997, in accordance with subsections (a), (b), or (c) of this section, including funds for the employer's retirement and social security contributions, of the permanent full-time and part-time employees of the agency.

(e) Within regular Executive Budget Act procedures as limited by this act, all State agencies and departments may increase on an equitable basis the rate of pay of temporary and permanent hourly State employees, subject to availability of funds in the particular agency or department, by pro rata amounts the salary increase provided for permanent full-time employees covered by the provisions of subsection (a) of this section, commencing July 1, 1997.

(f) Except as provided by subsection (a) of this section, no person may receive a salary increase under G.S. 126-7 during the 1997-98 fiscal year, and no State employee or officer shall receive a merit increment during the 1997-98 fiscal year except as otherwise provided by this act.

Requested by: Senators Plyler, Perdue, Odom, Representatives Holmes, Creech, Esposito, Crawford

ALL STATE-SUPPORTED PERSONNEL

Section 33.19. (a) Salaries and related benefits for positions that are funded partially from the General Fund or Highway Fund and partially from sources other than the General Fund or Highway Fund shall be increased from the General Fund or Highway Fund appropriation only to the extent of the proportionate part of the salaries paid from the General Fund or Highway Fund.

(b) The granting of the salary increases under this act does not affect the status of eligibility for salary increments for which employees may be eligible unless otherwise required by this act.

(c) The salary increases provided in this Part are to be effective July 1, 1997, do not apply to persons separated from State service due to resignation, dismissal, reduction in force, death, or retirement, whose last workday is prior to July 1, 1997, or to employees involved in final written disciplinary procedures. The employee shall receive the increase on a current basis when the final written disciplinary procedure is resolved.

Payroll checks issued to employees after July 1, 1997, which represent payment of services provided prior to July 1, 1997, shall not be eligible for salary increases provided for in this act. This subsection shall apply to all employees, subject to or exempt from the State Personnel Act, paid from State funds, including public schools, community colleges, and The University of North Carolina.

(d) The Director of the Budget shall transfer from the Reserve for Compensation Increase in this act for fiscal year 1997-98 all funds necessary for the salary increases provided by this act, including funds for the employer's retirement and social security contributions.

(e) Nothing in this act authorizes the transfer of funds between the General Fund and the Highway Fund for salary increases.

Requested by: Senators Perdue, Plyler, Odom, Wellons, Representatives Holmes, Creech, Esposito, Crawford

EXTEND SUNSET ON FICA SAVINGS USE

Section 33.20. (a) Section 14(i) of Chapter 1044 of the 1991 Session Laws, as amended by Section 42 of Chapter 561 of the 1993 Session Laws and Section 7.28A of Chapter 769 of the 1993 Session Laws, reads as rewritten:

"(i) Subsections (a) through (d) of this section are effective January 1, 1990. Subsections (e) through (h) of this section are effective January 1, 1991. Subsections (a) through (h) of this section shall expire December 31, 1997, December 31, 1999."

(b) This section is effective when it becomes law.

Requested by: Senators Plyler, Perdue, Odom, Representatives Holmes, Creech, Esposito, Crawford

SALARY ADJUSTMENT FUND

Section 33.21. Any remaining appropriations for legislative salary increases not required for that purpose may be used to supplement the Salary Adjustment Fund. These funds shall first be used to provide reclassifications of those positions already approved by the Office of State Personnel. The Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations prior to the allocation of these funds.

Requested by: Representatives Holmes, Creech, Esposito, Crawford, Barbee
Senators Plyler, Perdue, Odom, Jenkins

ENHANCE THE RETIREMENT BENEFITS PAYABLE FROM THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM, THE CONSOLIDATED JUDICIAL RETIREMENT SYSTEM, THE LEGISLATIVE RETIREMENT SYSTEM, AND THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM

Section 33.22. (a) G.S. 135-5(b16) reads as rewritten:

"(b16) Service Retirement Allowance of Members Retiring on or After July 1, 1995, 1995, but Before July 1, 1997. -- Upon retirement from service in accordance with subsection (a) or (a1) above, on or after July 1, 1995, but before July 1, 1997, a member shall receive the following service retirement allowance:

(1) A member who is a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:

a. If the member's service retirement date occurs on or after his 55th birthday, and completion of five years of creditable service as a law enforcement officer, or after the completion of 30 years of creditable service, the allowance shall be equal to one and seventy-five hundredths percent (1.75%) of his

average final compensation, multiplied by the number of years of his creditable service.

- b. If the member's service retirement date occurs on or after his 50th birthday and before his 55th birthday with 15 or more years of creditable service as a law enforcement officer and prior to the completion of 30 years of creditable service, his retirement allowance shall be equal to the greater of:

1. The service retirement allowance payable under G.S. 135-5(b16)(1)a. reduced by one-third of one percent ($1/3$ of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following the month the member would have attained his 55th birthday; or
2. The service retirement allowance as computed under G.S. 135-5(b16)(1)a. reduced by five percent (5%) times the difference between 30 years and his creditable service at retirement.

- (2) A member who is not a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:

- a. If the member's service retirement date occurs on or after his 65th birthday upon the completion of five years of creditable service or after the completion of 30 years of creditable service or on or after his 60th birthday upon the completion of 25 years of creditable service, the allowance shall be equal to one and seventy-five hundredths percent (1.75%) of his average final compensation, multiplied by the number of years of creditable service.
- b. If the member's service retirement date occurs after his 60th and before his 65th birthday and prior to his completion of 25 years or more of creditable service, his retirement allowance shall be computed as in G.S. 135-5(b16)(2)a. but shall be reduced by one-quarter of one percent ($1/4$ of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following his 65th birthday.
- c. If the member's early service retirement date occurs on or after his 50th birthday and before his 60th birthday and after completion of 20 years of creditable service but prior to the completion of 30 years of creditable service, his early service retirement allowance shall be equal to the greater of:
 1. The service retirement allowance as computed under G.S. 135-5(b16)(2)a. but reduced by the sum of five-twelfths of one percent ($5/12$ of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following the month the member would have attained his 60th birthday, plus one-quarter of one percent ($1/4$ of 1%) thereof for each month by which

his 60th birthday precedes the first day of the month coincident with or next following his 65th birthday; or

2. The service retirement allowance as computed under G.S. 135-5(b16)(2)a. reduced by five percent (5%) times the difference between 30 years and his creditable service at retirement; or
 3. If the member's creditable service commenced prior to July 1, 1994, the service retirement allowance equal to the actuarial equivalent of the allowance payable at the age of 60 years as computed in G.S. 135-5(b16)(2)b.
- d. Notwithstanding the foregoing provisions, any member whose creditable service commenced prior to July 1, 1963, shall not receive less than the benefit provided by G.S. 135-5(b)."

(b) G.S. 135-5 is amended by adding a new subsection to read:

"(b17) Service Retirement Allowance of Members Retiring on or After July 1, 1997. -- Upon retirement from service in accordance with subsection (a) or (a1) above, on or after July 1, 1997, a member shall receive the following service retirement allowance:

- (1) A member who is a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:
 - a. If the member's service retirement date occurs on or after his 55th birthday, and completion of five years of creditable service as a law enforcement officer, or after the completion of 30 years of creditable service, the allowance shall be equal to one and eighty hundredths percent (1.80%) of his average final compensation, multiplied by the number of years of his creditable service.
 - b. If the member's service retirement date occurs on or after his 50th birthday and before his 55th birthday with 15 or more years of creditable service as a law enforcement officer and prior to the completion of 30 years of creditable service, his retirement allowance shall be equal to the greater of:
 1. The service retirement allowance payable under G.S. 135-5(b17)(1)a. reduced by one-third of one percent (1/3 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following the month the member would have attained his 55th birthday; or
 2. The service retirement allowance as computed under G.S. 135-5(b17)(1)a. reduced by five percent (5%) times the difference between 30 years and his creditable service at retirement.
- (2) A member who is not a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:
 - a. If the member's service retirement date occurs on or after his 65th birthday upon the completion of five years of membership service or after the completion of 30 years of creditable service

or on or after his 60th birthday upon the completion of 25 years of creditable service, the allowance shall be equal to one and eighty hundredths percent (1.80%) of his average final compensation, multiplied by the number of years of creditable service.

- b. If the member's service retirement date occurs after his 60th birthday and before his 65th birthday and prior to his completion of 25 years or more of creditable service, his retirement allowance shall be computed as in G.S. 135-5(b17)(2)a. but shall be reduced by one-quarter of one percent (1/4 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following his 65th birthday.
- c. If the member's early service retirement date occurs on or after his 50th birthday and before his 60th birthday and after completion of 20 years of creditable service but prior to the completion of 30 years of creditable service, his early service retirement allowance shall be equal to the greater of:
 - 1. The service retirement allowance as computed under G.S. 135-5(b17)(2)a. but reduced by the sum of five-twelfths of one percent (5/12 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following the month the member would have attained his 60th birthday, plus one-quarter of one percent (1/4 of 1%) thereof for each month by which his 60th birthday precedes the first day of the month coincident with or next following his 65th birthday; or
 - 2. The service retirement allowance as computed under G.S. 135-5(b17)(2)a. reduced by five percent (5%) times the difference between 30 years and his creditable service at retirement; or
 - 3. If the member's creditable service commenced prior to July 1, 1994, the service retirement allowance equal to the actuarial equivalent of the allowance payable at the age of 60 years as computed in G.S. 135-5(b17)(2)b.
- d. Notwithstanding the foregoing provisions, any member whose creditable service commenced prior to July 1, 1963, shall not receive less than the benefit provided by G.S. 135-5(b)."

(c) G.S. 135-5(m) reads as rewritten:

"(m) Survivor's Alternate Benefit. -- Upon the death of a member in service, the principal beneficiary designated to receive a return of accumulated contributions shall have the right to elect to receive in lieu thereof the reduced retirement allowance provided by Option 2 of subsection (g) above computed by assuming that the member had retired on the first day of the month following the date of his death, provided that the following conditions apply:

- (1) a. The member had attained such age and/or creditable service to be eligible to commence retirement with an early or service retirement allowance, or

- b. The member had obtained 20 years of creditable service in which case the retirement allowance shall be computed in accordance with ~~G.S. 135-5(b16)(1)b.~~ ~~G.S. 135-5(b17)(1)b.~~ or ~~G.S. 135-5(b16)(2)c.~~ G.S. 135-5(b17)(2)c., notwithstanding the requirement of obtaining age 50.
- (2) The member had designated as the principal beneficiary to receive a return of his accumulated contributions one and only one person who was living at the time of his death.
- (3) The member had not instructed the Board of Trustees in writing that he did not wish the provisions of this subsection to apply.

For the purpose of this benefit, a member is considered to be in service at the date of his death if his death occurs within 180 days from the last day of his actual service. The last day of actual service shall be determined as provided in subsection (l) of this section. Upon the death of a member in service, the surviving spouse may make all purchases for creditable service as provided for under this Chapter for which the member had made application in writing prior to the date of death, provided that the date of death occurred prior to or within 60 days after notification of the cost to make the purchase. The term 'in service' as used in this subsection includes a member in receipt of a benefit under the Disability Income Plan as provided in Article 6 of this Chapter."

(d) G.S. 135-5 is amended by adding two new subsections to read:

"(ccc) From and after July 1, 1997, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1996, shall be increased by four percent (4%) of the allowance payable on June 1, 1997, in accordance with G.S. 135-5(o). Furthermore, from and after July 1, 1997, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 1996, but before June 30, 1997, shall be increased by a prorated amount of four percent (4%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 1996, and June 30, 1997.

(ddd) Increase in Allowance as to Persons on Retirement Rolls as of June 1, 1997. -- From and after July 1, 1997, the retirement allowance to or on account of beneficiaries on the retirement rolls as of June 1, 1997, shall be increased by two and two-tenths percent (2.2%) of the allowance payable on June 1, 1997. This allowance shall be calculated on the allowance payable and in effect on June 30, 1997, so as not to be compounded on any other increase granted by act of the 1997 General Assembly."

(e) G.S. 135-65 is amended by adding a new subsection to read:

"(r) From and after July 1, 1997, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1996, shall be increased by four percent (4%) of the allowance payable on June 1, 1997. Furthermore, from and after July 1, 1997, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 1996, but before June 30, 1997, shall be increased by a prorated amount of four percent (4%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 1996, and June 30, 1997."

(f) G.S. 120-4.22A is amended by adding a new subsection to read:

"(l) In accordance with subsection (a) of this section, from and after July 1, 1997, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before January 1, 1997, shall be increased by four percent (4%) of the allowance payable on June 1, 1997. Furthermore, from and after July 1, 1997, the retirement allowance to or on account of beneficiaries whose retirement commenced after January 1, 1997, but before June 30, 1997, shall be increased by a prorated amount of four percent (4%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between January 1, 1997, and June 30, 1997."

(g) G.S. 128-27(b15) reads as rewritten:

"(b15) Service Retirement Allowance of Members Retiring on or after July 1, 1995, but Before July 1, 1997. -- Upon retirement from service in accordance with subsection (a) or (a1) above, on or after July 1, 1995, but before July 1, 1997, a member shall receive the following service retirement allowance:

- (1) A member who is a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:
 - a. If the member's service retirement date occurs on or after his 55th birthday, and completion of five years of creditable service as a law enforcement officer, or after the completion of 30 years of creditable service, the allowance shall be equal to one and seventy-two hundredths percent (1.72%) of his average final compensation, multiplied by the number of years of his creditable service.
 - b. If the member's service retirement date occurs on or after his 50th birthday and before his 55th birthday with 15 or more years of creditable service as a law enforcement officer and prior to the completion of 30 years of creditable service, his retirement allowance shall be equal to the greater of:
 1. The service retirement allowance payable under G.S. 128-27(b15)(1)a. reduced by one-third of one percent ($\frac{1}{3}$ of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following the month the member would have attained his 55th birthday; or
 2. The service retirement allowance as computed under G.S. 128-27(b15)(1)a. reduced by five percent (5%) times the difference between 30 years and his creditable service at retirement.
- (2) A member who is not a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:
 - a. If the member's service retirement date occurs on or after his 65th birthday upon the completion of five years of creditable service or after the completion of 30 years of creditable service or on or after his 60th birthday upon the completion of 25

years of creditable service, the allowance shall be equal to one and seventy-two hundredths percent (1.72%) of his average final compensation, multiplied by the number of years of creditable service.

- b. If the member's service retirement date occurs after his 60th and before his 65th birthday and prior to his completion of 25 years or more of creditable service, his retirement allowance shall be computed as in G.S. 128-27(b15)(2)a. but shall be reduced by one-quarter of one percent ($1/4$ of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following his 65th birthday.
- c. If the member's early service retirement date occurs on or after his 50th birthday and before his 60th birthday and after completion of 20 years of creditable service but prior to the completion of 30 years of creditable service, his early service retirement allowance shall be equal to the greater of:
 1. The service retirement allowance as computed under G.S. 128-27(b15)(2)a. but reduced by the sum of five-twelfths of one percent ($5/12$ of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following the month the member would have attained his 60th birthday, plus one-quarter of one percent ($1/4$ of 1%) thereof for each month by which his 60th birthday precedes the first day of the month coincident with or next following his 65th birthday; or
 2. The service retirement allowance as computed under G.S. 128-27(b15)(2)a. reduced by five percent (5%) times the difference between 30 years and his creditable service at retirement; or
 3. If the member's creditable service commenced prior to July 1, 1995, the service retirement allowance equal to the actuarial equivalent of the allowance payable at the age of 60 years as computed in G.S. 128-27(b15)(2)b.
- d. Notwithstanding the foregoing provisions, any member whose creditable service commenced prior to July 1, 1965, shall not receive less than the benefit provided by G.S. 128-27(b)."

(h) G.S. 128-27 is amended by adding a new subsection to read:

"(b16) Service Retirement Allowance of Members Retiring on or after July 1, 1997. -- Upon retirement from service in accordance with subsection (a) or (a1) above, on or after July 1, 1997, a member shall receive the following service retirement allowance:

(1) A member who is a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:

a. If the member's service retirement date occurs on or after his 55th birthday, and completion of five years of creditable service as a law enforcement officer, or after the completion of 30 years of creditable service, the allowance shall be equal to

one and seventy-six hundredths percent (1.76%) of his average final compensation, multiplied by the number of years of his creditable service.

- b. If the member's service retirement date occurs on or after his 50th birthday and before his 55th birthday with 15 or more years of creditable service as a law enforcement officer and prior to the completion of 30 years of creditable service, his retirement allowance shall be equal to the greater of:

1. The service retirement allowance payable under G.S. 128-27(b16)(1)a. reduced by one-third of one percent ($1/3$ of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following the month the member would have attained his 55th birthday; or

2. The service retirement allowance as computed under G.S. 128-27(b16)(1)a. reduced by five percent (5%) times the difference between 30 years and his creditable service at retirement.

- (2) A member who is not a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:

a. If the member's service retirement date occurs on or after his 65th birthday upon the completion of five years of creditable service or after the completion of 30 years of creditable service or on or after his 60th birthday upon the completion of 25 years of creditable service, the allowance shall be equal to one and seventy-six hundredths percent (1.76%) of his average final compensation, multiplied by the number of years of creditable service.

b. If the member's service retirement date occurs after his 60th birthday and before his 65th birthday and prior to his completion of 25 years or more of creditable service, his retirement allowance shall be computed as in G.S. 128-27(b16)(2)a. but shall be reduced by one-quarter of one percent ($1/4$ of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following his 65th birthday.

c. If the member's early service retirement date occurs on or after his 50th birthday and before his 60th birthday and after completion of 20 years of creditable service but prior to the completion of 30 years of creditable service, his early service retirement allowance shall be equal to the greater of:

1. The service retirement allowance as computed under G.S. 128-27(b16)(2)a. but reduced by the sum of five-twelfths of one percent ($5/12$ of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following the month the member would have attained his 60th birthday, plus one-quarter of one percent ($1/4$ of 1%) thereof for each month by which

- his 60th birthday precedes the first day of the month coincident with or next following his 65th birthday; or
2. The service retirement allowance as computed under G.S. 128-27(b16)(2)a. reduced by five percent (5%) times the difference between 30 years and his creditable service at retirement; or
 3. If the member's creditable service commenced prior to July 1, 1995, the service retirement allowance equal to the actuarial equivalent of the allowance payable at the age of 60 years as computed in G.S. 128-27(b16)(2)b.
- d. Notwithstanding the foregoing provisions, any member whose creditable service commenced prior to July 1, 1965, shall not receive less than the benefit provided by G.S. 128-27(b)."

(i) G.S. 128-27 is amended by adding two new subsections to read:

"(ss) From and after July 1, 1997, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1996, shall be increased by four percent (4%) of the allowance payable on June 1, 1997, in accordance with G.S. 128-27(k). Furthermore, from and after July 1, 1997, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 1996, but before June 30, 1997, shall be increased by a prorated amount of four percent (4%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 1996, and June 30, 1997.

(tt) Increase in Allowance as to Persons on Retirement Rolls as of June 1, 1997. -- From and after July 1, 1997, the retirement allowance to or on account of beneficiaries on the retirement rolls as of June 1, 1997, shall be increased by two and three-tenths percent (2.3 %) of the allowance payable on June 1, 1997. This allowance shall be calculated on the allowance payable and in effect on June 30, 1997, so as not to be compounded on any other increase payable under subsection (k) of this section or otherwise granted by act of the 1997 General Assembly."

(j) G.S. 128-27(m) reads as rewritten:

"(m) Survivor's Alternate Benefit. -- Upon the death of a member in service, the principal beneficiary designated to receive a return of accumulated contributions shall have the right to elect to receive in lieu thereof the reduced retirement allowance provided by Option two of subsection (g) above computed by assuming that the member had retired on the first day of the month following the date of his death, provided that all three of the following conditions apply:

- (1) a. The member had attained such age and/or creditable service to be eligible to commence retirement with an early or service retirement allowance, or
- b. The member had obtained 20 years of creditable service in which case the retirement allowance shall be computed in accordance with ~~G.S. 128-27(b15)(1)b.~~ G.S. 128-27(b16)(1)b. or ~~G.S. 128-27(b15)(2)c.~~ G.S. 128-27(b16)(2)c., notwithstanding the requirement of obtaining age 50.

- (2) The member had designated as the principal beneficiary to receive a return of his accumulated contributions one and only one person who is living at the time of his death.
- (3) The member had not instructed the Board of Trustees in writing that he did not wish the provisions of this subsection apply.

For the purpose of this benefit, a member is considered to be in service at the date of his death if his death occurs within 180 days from the last day of his actual service. The last day of actual service shall be determined as provided in subsection (1) of this section. Upon the death of a member in service, the surviving spouse may make all purchases for creditable service as provided for under this Chapter for which the member had made application in writing prior to the date of death, provided that the date of death occurred prior to or within 60 days after notification of the cost to make the purchase."

Requested by: Senators Plyler, Perdue, Odom, Lee, Representatives Holmes, Creech, Esposito, Crawford

SALARY-RELATED CONTRIBUTIONS/EMPLOYERS

Section 33.23. (a) Required employer salary-related contributions for employees whose salaries are paid from department, office, institution, or agency receipts shall be paid from the same source as the source of the employees' salary. If an employee's salary is paid in part from the General Fund or Highway Fund and in part from department, office, institution, or agency receipts, required employer salary-related contributions may be paid from the General Fund or Highway Fund only to the extent of the proportionate part paid from the General Fund or Highway Fund in support of the salary of the employee, and the remainder of the employer's requirements shall be paid from the source that supplies the remainder of the employee's salary. The requirements of this section as to source of payment are also applicable to payments on behalf of the employee for hospital-medical benefits, longevity pay, unemployment compensation, accumulated leave, workers' compensation, severance pay, separation allowances, and applicable disability income and disability salary continuation benefits.

(b) Effective July 1, 1997, the State's employer contribution rates budgeted for retirement and related benefits as a percentage of covered salaries for the 1997-98 fiscal year are (i) ten and forty-six hundredths percent (10.46%) - Teachers and State Employees; (ii) fifteen and forty-six hundredths percent (15.46%) - State Law Enforcement Officers; (iii) nine and thirty-six hundredths percent (9.36%) - University Employees' Optional Retirement Program; (iv) twenty-two and sixty-five hundredths percent (22.65%) - Consolidated Judicial Retirement System; and (v) twenty-four and fifty-eight hundredths percent (24.58%) - Legislative Retirement System. Each of the foregoing contribution rates includes two percent (2%) for hospital and medical benefits. The rate for State Law Enforcement Officers includes five percent (5%) for the Supplemental Retirement Income Plan. The rates for Teachers and State Employees, State Law Enforcement Officers, and for the University Employees' Optional Retirement Program include fifty-two hundredths percent (0.52%) for the Disability Income Plan.

(c) Effective July 1, 1998, the State's employer contribution rates budgeted for retirement and related benefits as a percentage of covered salaries for the 1998-99 fiscal year are (i) ten and eighty-three hundredths percent (10.83%) - Teachers and State Employees; (ii) fifteen and eighty-three hundredths percent (15.83%) - State Law Enforcement Officers; (iii) nine and thirty-six hundredths percent (9.36%) - University Employees' Optional Retirement Program; (iv) twenty-two and sixty-five hundredths percent (22.65%) - Consolidated Judicial Retirement System; and (v) twenty-four and fifty-eight hundredths percent (24.58%) - Legislative Retirement System. Each of the foregoing contribution rates includes two percent (2%) for hospital and medical benefits. The rate for State Law Enforcement Officers includes five percent (5%) for the Supplemental Retirement Income Plan. The rates for Teachers and State Employees, State Law Enforcement Officers, and for the University Employees' Optional Retirement Program include fifty-two hundredths percent (0.52%) for the Disability Income Plan.

(d) The maximum annual employer contributions, payable monthly, by the State for each covered employee or retiree for the 1997-98 fiscal year and for the 1998-99 fiscal year to the Teachers' and State Employees' Comprehensive Major Medical Plan are: (i) Medicare-eligible employees and retirees - one thousand three hundred twenty-one dollars (\$1,321); and (ii) Non-Medicare-eligible employees and retirees - one thousand seven hundred thirty-six dollars (\$1,736).

Requested by: Representatives Ives, McCombs, Sherrill, Senators Plyler, Perdue, Odom

RETIREMENT SYSTEM ADMINISTRATIVE EXPENSES TO COMPLY WITH SUPREME COURT DECISIONS

Section 33.24. The Board of Trustees of the Teachers' and State Employees' Retirement System may expend an aggregate total of not more than five hundred thousand dollars (\$500,000) for fiscal year 1997-98 and an aggregate total of not more than two hundred thousand dollars (\$200,000) for fiscal year 1998-99 from assets of the Teachers' and State Employees' Retirement System and the Local Governmental Employees Retirement System to meet administrative expenses to comply with the Faulkenberry, Woodard and Peel cases (109PA96) decided by the Supreme Court on April 11, 1997.

Requested by: Senators Plyler, Perdue, Odom, Martin of Pitt, Representatives Holmes, Creech, Esposito, Crawford, Daughtry

INCREASE THE MONTHLY BENEFITS FROM THE NORTH CAROLINA FIREMEN'S AND RESCUE SQUAD WORKERS' PENSION FUND

Section 33.25. (a) G.S. 58-86-55 reads as rewritten:

"§ 58-86-55. *Monthly pensions upon retirement.*

Any member who has served 20 years as an 'eligible fireman' or 'eligible rescue squad worker' in the State of North Carolina, as provided in G.S. 58-86-25 and G.S. 58-86-30, and who has attained the age of 55 years is entitled to be paid a monthly pension from this fund. The monthly pension shall be in the amount of ~~one hundred thirty-five dollars (\$135.00)~~ one

~~hundred forty-one dollars (\$141.00) per month. Any retired fireman receiving a pension of one hundred ten dollars (\$110.00) per month shall, effective July 1, 1995, 1997, receive a pension of one hundred thirty-five dollars (\$135.00) one hundred forty-one dollars (\$141.00) per month.~~

Members shall pay ten dollars (\$10.00) per month as required by G.S. 58-86-35 and G.S. 58-86-40 for a period of no longer than 20 years. No 'eligible rescue squad member' shall receive a pension prior to July 1, 1983. No member shall be entitled to a pension hereunder until the member's official duties as a fireman or rescue squad worker for which the member is paid compensation shall have been terminated and the member shall have retired as such according to standards or rules fixed by the board of trustees.

A member who is totally and permanently disabled while in the discharge of the member's official duties as a result of bodily injuries sustained or as a result of extreme exercise or extreme activity experienced in the course and scope of those official duties and who leaves the fire or rescue squad service because of this disability shall be entitled to be paid from the fund a monthly benefit in an amount of ~~one hundred thirty-five dollars (\$135.00)~~ one hundred forty-one dollars (\$141.00) per month beginning the first month after the member's fifty-fifth birthday. All applications for disability are subject to the approval of the board who may appoint physicians to examine and evaluate the disabled member prior to approval of the application, and annually thereafter. Any disabled member shall not be required to make the monthly payment of ten dollars (\$10.00) as required by G.S. 58-86-35 and G.S. 58-86-40.

A member who is totally and permanently disabled for any cause, other than line of duty, who leaves the fire or rescue squad service because of this disability and who has at least 10 years of service with the pension fund, may be permitted to continue making a monthly contribution of ten dollars (\$10.00) to the fund until the member has made contributions for a total of 240 months. The member shall upon attaining the age of 55 years be entitled to receive a pension as provided by this section. All applications for disability are subject to the approval of the board who may appoint physicians to examine and evaluate the disabled member prior to approval of the application and annually thereafter.

A member who, because his residence is annexed by a city under Part 2 or Part 3 of Article 4 of Chapter 160A of the General Statutes, or whose department is closed because of an annexation by a city under Part 2 or Part 3 of Article 4 of Chapter 160A of the General Statutes, and because of such annexation is unable to perform as a fireman of any status, and if the member has at least 10 years of service with the pension fund, may be permitted to continue making a monthly contribution of ten dollars (\$10.00) to the fund until the member has made contributions for a total of 240 months. The member upon attaining the age of 55 years and completion of such contributions shall be entitled to receive a pension as provided by this section. Any application to make monthly contributions under this section shall be subject to a finding of eligibility by the Board of Trustees upon application of the member.

The pensions provided shall be in addition to all other pensions or benefits under any other statutes of the State of North Carolina or the United States, notwithstanding any exclusionary provisions of other pensions or retirement systems provided by law."

(b) It is the intent of the General Assembly to provide cost-of-living increases to members and retirees of the Firemen's and Rescue Squad Workers' Pension Fund at a rate equal to any cost-of-living increases provided to beneficiaries of the Teachers' and State Employees' Retirement System, to the extent that funds are available.

PART XXXIV. GENERAL CAPITAL APPROPRIATIONS/PROVISIONS

INTRODUCTION

Section 34. The appropriations made by the 1997 General Assembly for capital improvements are for constructing, repairing, or renovating State buildings, utilities, and other capital facilities, for acquiring sites for them where necessary, and acquiring buildings and land for State government purposes.

CAPITAL APPROPRIATIONS/GENERAL FUND

Section 34.1. Appropriations are made from the General Fund of the State for the 1997-99 biennium for use by the State departments, institutions, and agencies to provide for capital improvement projects according to the following schedule:

Capital Improvements - General Fund

	<u>1997-98</u>
Department of Administration	
1. State Government Visitors' Center Planning	\$ 1,000,000
Department of Agriculture and Consumer Services (Total)	9,679,400
1. Rollins Lab Addition	135,000
2. Multi-purpose Events Building at State Fairgrounds (Planning)	1,000,000
3. Piedmont Triad Farmers Market Wholesale/Retail Building, Planning and Construction	3,444,400
4. Southeastern NC Agricultural Center Continued Development, Robeson County	1,000,000
5. Eastern Agricultural Center Completion, Martin County	3,500,000
6. Cattle and Livestock Exposition Center Planning	600,000
State Ports Authority (Total)	4,859,300
Wilmington	780,000
1. Land Acquisition	
2. Purchase New Gantry Crane	4,079,300
Department of Correction (Total)	700,000
1. Planning for single cell facility, Alexander	

County	300,000
2. Funding for a multi-purpose modular building, Carteret County	400,000
Department of Crime Control and Public Safety	
1. Charlotte NG Armory Construction, State's share of costs	1,260,300
Department of Cultural Resources (Total)	6,908,945
1. Museum of History Restaurant Completion	608,945
2. Cape Fear Museum	1,100,000
3. Museum of Albemarle Planning/Site Development	1,000,000
4. Roanoke Island Commission-Exhibits at the Festival Park	1,400,000
5. Reserve for Exhibits: Museum of History and State Capitol/Visitors Center	1,300,000
6. Maritime Museum Land Acquisition/Environmental Requirements	1,500,000
Department of Environment, Health, and Natural Resources (Total)	30,265,700
1. Water Resources Development/Watershed Projects	7,030,600
2. Natural Science Museum Exhibits	7,600,000
3. NC Aquariums, Manteo Facility	11,500,000
4. Forestry Headquarters, Wayne County	100,000
5. Amphibious Water Scooping Tanker Aircraft	4,035,100
Department of Human Resources	
1. Eastern NC SD Independent Living Complex Planning	500,000
University Board of Governors (Total)	92,317,475
1. UNC Public Television Columbia Transmitter, Tower	7,144,500
2. A&T State University	
a. General Classroom and Lab Building	4,000,000
3. Appalachian State University	
a. Convocation Center Supplement	5,000,000
4. Elizabeth City State University	
a. Fine Arts Building Completion	3,000,000
b. Addition to Academic Computing Center	3,557,600
5. East Carolina University	
a. Completion of expansion of the Dowdy- Ficklen Stadium	7,000,000
b. Science Labs & Technology Building Continued Design	2,000,000
c. Addition to Nursing/Home Economics Building Planning	500,000
6. North Carolina Central University	
a. B.N. Duke Auditorium Addition	840,000
7. North Carolina School of the Arts	

a.	Classrooms, offices and support for School of Filmmaking	1,700,000
8.	North Carolina State University	
a.	Completion of Eastern 4-H Environmental Education Center, Tyrrell County	5,545,300
b.	Finalize Construction Drawings for JC Raulston Arboretum	87,000
c.	Expansion of the CMAST Building	2,363,000
d.	Toxicology Building Planning	760,600
e.	Research & Teaching Feed Mill	2,604,400
9.	UNC Asheville	
a.	Kellogg Center	500,000
b.	Graduate Center, Phase II (Completion of third floor)	792,700
10.	UNC Chapel Hill	
a.	Paul J. Rizzo Conference Center	2,800,000
b.	Institute of Government Knapp Building Addition	4,000,000
c.	Beard Hall-School of Pharmacy	8,824,600
d.	Botanical Gardens	350,000
e.	Carolina Living and Learning Center	1,274,275
11.	UNC Charlotte	
a.	Construction of a new building for Polymer's Ext. Program	1,450,000
b.	Academic Facilities Planning	780,000
12.	UNC Greensboro	
a.	Science Lab and Classroom Building	3,500,000
b.	Music Building Supplement	2,300,000
13.	UNC Pembroke	
a.	Construction of a new Residence Hall	5,979,500
14.	UNC Wilmington	
a.	General Classroom Building	8,465,500
15.	Winston-Salem State University	
a.	Expansion/Renovation of F.L. Atkins Nursing Building	5,198,500
Department of Community Colleges (Total)		500,000
1.	Center for Applied Textile Technology	
a.	Maintenance and Storage Facility	62,800
b.	Planning, Design, and Site Development for Lab and Administration Building	437,200
GRAND TOTAL - GENERAL FUND CAPITAL IMPROVEMENTS		\$147,991,120

Requested by: Senators Plyler, Perdue, Odom, Representatives Russell, G. Wilson

PROCEDURES FOR DISBURSEMENT

Section 34.2. The appropriations made by the 1997 General Assembly for capital improvements shall be disbursed for the purposes provided by this act. Expenditure of funds shall not be made by any State department, institution, or agency, until an allotment has been approved by the Governor as Director of the Budget. The allotment shall be approved only after full compliance with the Executive Budget Act, Article 1 of Chapter 143 of the General Statutes. Prior to the award of construction contracts for projects to be financed in whole or in part with self-liquidating appropriations, the Director of the Budget shall approve the elements of the method of financing of those projects including the source of funds, interest rate, and liquidation period. Provided, however, that if the Director of the Budget approves the method of financing a project, the Director shall report that action to the Joint Legislative Commission on Governmental Operations at its next meeting.

Where direct capital improvement appropriations include the purpose of furnishing fixed and movable equipment for any project, those funds for equipment shall not be subject to transfer into construction accounts except as authorized by the Director of the Budget. The expenditure of funds for fixed and movable equipment and furnishings shall be reviewed and approved by the Director of the Budget prior to commitment of funds.

Capital improvement projects authorized by the 1997 General Assembly shall be completed, including fixed and movable equipment and furnishings, within the limits of the amounts of the direct or self-liquidating appropriations provided, except as otherwise provided in this act. Capital improvement projects authorized by the 1997 General Assembly for the design phase only shall be designed within the scope of the project as defined by the approved cost estimate filed with the Director of the Budget, including costs associated with site preparation, demolition, and movable and fixed equipment.

Requested by: Senators Plyler, Perdue, Odom, Representatives Russell, G. Wilson

RESERVE FOR ADVANCE PLANNING

Section 34.3. The Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division on how it intends to spend funds from the Reserve for Advance Planning at least 45 days before it spends the funds.

The Office of State Budget and Management shall also report the results of any project on which it uses funds from the Reserve for Advance Planning to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division.

Requested by: Senators Plyler, Perdue, Odom, Representatives Russell, G. Wilson

ENCUMBERED APPROPRIATIONS AND PROJECT RESERVE FUND

Section 34.4. When each capital improvement project appropriated by the 1997 General Assembly, other than those projects under the Board of Governors of The University of North Carolina, is placed under a construction contract, direct appropriations shall be encumbered to include

all costs for construction, design, investigation, administration, movable equipment, and a reasonable contingency. Unencumbered direct appropriations remaining in the project budget shall be placed in a project reserve fund credited to the Office of State Budget and Management. Funds in the project reserve may be used for emergency repair and renovation projects at State facilities with the approval of the Director of the Budget. The project reserve fund may be used, at the discretion of the Director of the Budget, to allow for award of contracts where bids exceed appropriated funds, if those projects supplemented were designed within the scope intended by the applicable appropriation or any authorized change in it, and if, in the opinion of the Director of the Budget, all means to award contracts within the appropriation were reasonably attempted. At the discretion of the Director of the Budget, any balances in the project reserve fund shall revert to the original source.

Requested by: Senators Odom, Plyler, Perdue, Representatives Russell, G. Wilson

EXPENDITURE OF FUNDS FROM RESERVE FOR REPAIRS AND RENOVATIONS

Section 34.5. (a) Of the funds in the Reserve for Repairs and Renovations for the 1997-98 fiscal year, forty-six percent (46%) shall be allocated to the Board of Governors of The University of North Carolina for repairs and renovations pursuant to G.S. 143-15.3A, in accordance with guidelines developed in The University of North Carolina Funding Allocation Model for Reserve for Repairs and Renovations, as approved by the Board of Governors of The University of North Carolina, and fifty-four percent (54%) shall be allocated to the Office of State Budget and Management for repairs and renovations pursuant to G.S. 143-15.3A.

Notwithstanding G.S. 143-15.3A, the Board of Governors may allocate funds for the repair and renovation of facilities not supported from the General Fund if the Board determines that sufficient funds are not available from other sources and that conditions warrant General Fund assistance. Any such finding shall be included in the Board's submission to the Joint Legislative Commission on Governmental Operations on the proposed allocation of funds.

The Board of Governors and the Office of State Budget and Management shall submit to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division of the Legislative Services Office, for their review, the proposed allocations of these funds. Subsequent changes in the proposed allocations shall be reported prior to expenditure to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division of the Legislative Services Office.

(b) The allocations of the supplemental funding for the Reserve for Repairs and Renovations for 1997-98 shall be allocated as follows:

Department of Agriculture and Consumer Services
Rollins Lab

402,000

State Ports Authority	
Pier Replacement at Wilmington	1,383,400
Department of Cultural Resources	
Museum of History Restaurant	1,191,055
Department of Human Resources-	
Western Carolina Center (Total)	3,614,200
Renovate and modernize food service system	575,000
Perimeter road resurfacing	393,900
Replace cooling equipment-gym	62,000
Swimming pool pipe replacement	48,800
Replace asbestos floor tile-gym	89,500
Renovate Spruce & Pine Cottages	1,100,000
Renovate Poplar & Ash Cottages	1,100,000
Reroofing projects	245,000
Board of Governors (Total)	32,670,300
Fire Safety Improvements for Student	
Residence Halls	5,000,000
NCSU Nelson Hall Renovations	6,914,900
UNC Chapel Hill Institute of Government	
Knapp Building Renovations	4,532,100
NCCU Lee Biology Renovation	1,359,200
NCCU Repairs to 5 Academic Buildings	10,515,000
NCCU B. N. Duke Auditorium Renovation	2,122,500
WCU Renovate Camp Lab School, Phase II	2,226,600

Requested by: Representatives Russell, G. Wilson, Senator Warren

HISTORIC SITES REPAIRS AND RENOVATIONS FUNDS

Section 34.6. (a) Funds allocated in this act to the Office of State Budget and Management for the Repairs and Renovations Fund may be used to make needed repairs and renovations at the State Historic Sites.

(b) There is established the Historic Sites Repairs and Renovations Review Committee. The Committee shall consist of the following members: The three cochair of the Senate Appropriations and Base Budget Committee and the four cochair of the House of Representatives Appropriations Committee. The Office of State Budget and Management shall submit its proposal for the use of funds from the Repairs and Renovations Fund for Historic Sites to the Committee before submitting the proposal to the Joint Legislative Commission on Governmental Operations in accordance with this act.

Requested by: Senators Martin of Pitt, Perdue, Plyler, Representatives Russell, G. Wilson

WATER RESOURCES DEVELOPMENT PROJECTS FUNDS

Section 34.7. (a) The Department of Environment, Health, and Natural Resources shall allocate the funds appropriated in Section 34.1 of

this act for water resources development projects to the following projects whose estimated costs are as indicated:

Name of Project

1. Wilmington Harbor Maintenance Dredging	\$ 455,000
2. Wilmington Harbor Channel Widening	1,030,000
3. Manteo Shallowbag Bay Maintenance Dredging	150,000
4. Aquatic Plant Control Statewide and Lake Gaston	150,000
5. Wilmington Harbor Long-Term Disposal	545,000
6. Carolina Beach Renourishment	1,148,000
7. Wrightsville Beach Renourishment	500,000
8. State-Local Projects	
a. McLendons Creek Stream Restoration (Moore County)	30,000
b. Allens Creek Water Management (Haywood County)	25,000
c. Big Elkin Creek Stream Restoration (Surry County)	8,000
d. Beech Mountain Stream Restoration Projects (Watauga County)	30,000
e. Tuckasegee River Access (Swain County)	60,000
f. Brevard High School Wetland Boardwalk (Transylvania County)	8,000
g. Tranters Creek-Flat Swamp Drainage (Martin County)	36,300
h. River Bend Canals Maintenance Dredging (Craven County)	292,000
i. Haw River Access (Alamance County)	17,400
j. Graham-Mebane Lake Pier and Picnic Facility (Alamance County)	20,000
k. French Broad River Park (Buncombe County)	30,000
l. Mill Creek Wetland and Trail Construction (Forsyth County)	13,300
m. Kitty Hawk Beach Access (Dare County)	80,500
n. Wetland Water Management (Dare County)	10,000
o. Lovill's Creek Greenway (Surry County)	89,000
p. Elm Street Drainage (Moore County)	20,000
q. Scott Branch Drainage (Stokes County)	30,000
r. Contentnea Creek Drainage, Phase IV (Wilson County)	29,100
Subtotals	828,600
9. Wanchese Marsh Creation and Protection	100,000

10. Long Beach Sea Turtle Habitat Restoration	500,000
11. Clinton Wastewater Treatment Plant Flood Protection	84,000
12. North and Manteo Channel Maintenance Dredging	500,000
13. Dare County Beaches Feasibility Study	40,000
14. AIWW Easement Acquisition	100,000
15. Planning Assistance to Communities	100,000
16. Corp of Engineers Feasibility Studies	200,000
17. Emergency Flood Control Projects (Section 14)	100,000
18. Natural Resources Conservation Service Projects-Deep Creek (Yadkin County)	500,000
	7,030,600

(b) Where the actual costs are different from the estimated costs under subsection (a) of this section, the Department may adjust the allocations among projects as needed. If any projects listed in subsection (a) of this section are delayed and the budgeted State funds cannot be used during the 1997-98 fiscal year, or if the projects listed in subsection (a) of this section are accomplished at a lower cost, the Department may use the resulting fund availability to fund any of the following:

- (1) Corps of Engineers project feasibility studies.
- (2) Corps of Engineers projects whose schedules have advanced and require State matching funds in fiscal year 1997-98.
- (3) State-local Water Resources Development Projects.

Funds not expended or encumbered for these purposes shall revert to the General Fund at the end of the 1998-99 fiscal year.

(c) The Department shall make quarterly reports on the use of these funds to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Office of State Budget and Management. Each report shall include all of the following:

- (1) All projects listed in this section.
- (2) The estimated cost of each project.
- (3) The date that work on each project began or is expected to begin.
- (4) The date that work on each project was completed or is expected to be completed.
- (5) The actual cost of each project.

The quarterly reports shall also show those projects advanced in schedule, those projects delayed in schedule, and an estimate of the amount of funds expected to revert to the General Fund.

Requested by: Representatives Russell, G. Wilson

CAPITAL IMPROVEMENT PROJECTS/SUPPLEMENTAL FUNDING APPROVAL/REPORTING REQUIREMENT

Section 34.8. Each department receiving capital improvement appropriations from the Highway Fund under this act shall report quarterly to the Director of the Budget on the status of those capital projects. The reporting procedure to be followed shall be developed by the Director of the Budget.

Capital improvement projects authorized in this act that have not been placed under contract for construction due to insufficient funds may be supplemented with funds identified by the Director of the Budget, provided:

- (1) That the project was designed and bid within the scope as authorized by the General Assembly;
- (2) That the funds to supplement the project are the same source as authorized for the original project;
- (3) That the department to which the project was authorized has unsuccessfully pursued all statutory authorizations to award the contract; and
- (4) That the action be reported to the Fiscal Research Division of the Legislative Services Office.

Requested by: Representatives Russell, G. Wilson

CAPITAL IMPROVEMENT PLANNING AND BUDGETING

Section 34.9. Chapter 143 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 1A.

"Capital Improvement Planning Act.

"§ 143-34.8. Definitions.

The following definitions apply in this Article:

- (1) Capital improvement. -- The term includes land acquisition, new construction, or rehabilitation of existing facilities, and repairs and renovations.
- (2) State agency. -- The term includes the Board of Governors of The University of North Carolina.

"§ 143-34.8A. Legislative intent; purpose.

(a) The General Assembly recognizes the need to establish a comprehensive process for capital improvement planning that is fully integrated with State financial planning and debt management.

(b) The capital improvement planning and budgeting process shall include the following elements:

- (1) An inventory of facilities owned by State agencies.
- (2) Criteria used to evaluate capital improvement needs.
- (3) A six-year capital improvement needs inventory.
- (4) A six-year capital improvement plan.

(c) The Office of State Budget and Management has responsibility for management of the capital improvement planning process. The Director of the Budget may assign to any State agency or institution such duties and responsibilities as may in the Director's judgment be necessary to the successful administration of the capital improvement planning process.

"§ 143-34.8B. Capital improvement facilities inventory.

The Department of Administration shall develop and maintain an automated inventory of all facilities owned by State agencies pursuant to G.S. 143-341(4). The inventory shall include the location, occupying agency, ownership, size, description, condition assessment, maintenance record, parking and employee facilities, and other information to determine maintenance needs and prepare life-cycle cost evaluations of each facility listed in the inventory. The Department of Administration shall update and publish the inventory at least once every three years. The Department shall also record in the inventory acquisitions of new facilities and significant changes in existing facilities as they occur.

"§ 143-34.8C. Capital improvement needs criteria.

The Office of State Budget and Management shall develop a weighted list of factors that may be used to evaluate the need for capital improvement projects. The list shall include all of the following:

- (1) Preservation of existing facilities.
- (2) Health and safety considerations.
- (3) Operational efficiencies.
- (4) Increased demand for governmental services.

"§ 143-34.8D. Agency capital improvement needs estimates.

(a) On or before September 1 of each even-numbered year, each State agency shall submit to the Office of State Budget and Management and to the Division of Fiscal Research a six-year capital improvement needs estimate. This estimate shall describe the agency's anticipated capital needs for each year of the six-year planning period. Capital improvement needs estimates shall be shown in two parts.

(b) The first part of the capital improvement needs estimates shall include only requirements for repairs and renovations necessary to maintain the existing use of existing facilities. Each proposed repair and renovation expenditure shall be justified by reference to the Facilities Condition Assessment Program operated by the Office of State Construction.

(c) The second part of the capital improvement needs estimates shall include only proposals for land acquisition and projects involving either construction of new facilities or rehabilitation of existing facilities to accommodate uses for which the existing facilities were not originally designed. Each project included in this part shall be justified by reference to the needs evaluation criteria established by the Office of State Budget and Management pursuant to G.S. 143-34.8C.

"§ 143-34.8E. Six-year capital improvement plan.

(a) The State capital improvement plan shall address the long-term capital improvement needs of all State government agencies and shall incorporate all capital projects, however financed, proposed to meet those needs, except that transportation infrastructure projects shall be excluded. On or before December 31 of each even-numbered year, the Director of the Budget shall prepare and transmit to the General Assembly a six-year capital improvement plan. When preparing the plan, the Director of the Budget shall consider the capital improvement needs estimates submitted by State agencies as required in G.S. 143-34.8D. The plan shall be prepared in two parts.

(b) The first part of the capital improvement plan shall set forth repair and renovations requirements that, in the judgment of the Director of the

Budget, must be met to protect and preserve existing capital improvement facilities. General Fund expenditure levels anticipated in this part of the plan shall be consistent with the formula establishing the repair and renovation reserve in G.S. 143-15.3A.

(c) The second part of the capital improvement plan shall set forth an integrated schedule for land acquisition, new construction, or rehabilitation of existing facilities that, in the judgment of the Director of the Budget, should be initiated within each year of the six-year planning period. The plan shall contain an estimated schedule for each project, along with estimates of planning, design, and construction cost."

Requested by: Representatives Russell, G. Wilson
STATE CAPITAL AND VISITOR'S CENTER SITE

Section 34.10. The new State Capital and Visitor Center being planned for construction shall be located at the site bounded by Blount Street, Edenton Street, Person Street, and Jones Street in Raleigh, unless that construction site is unacceptable for structural reasons.

Requested by: Representatives Russell, G. Wilson, McMahan
UNIFORM FINANCIAL ACCOUNTABILITY

Section 34.11. G.S. 143-6.1 reads as rewritten:

"§ 143-6.1. Report on use of State funds by non-State entities.

(a) Disbursement and Use of State Funds. -- Every corporation, organization, and institution that receives, uses, or expends any State funds shall use or expend the funds only for the purposes for which they were appropriated by the General Assembly or collected by the State. State funds include federal funds that flow through the State. For the purposes of this section, the term "grantee" means a corporation, organization, or institution that receives, uses, or expends any State funds. The State may not disburse State funds appropriated by the General Assembly to any grantee or collected by the State for use by any grantee if that grantee has failed to provide any reports or financial information previously required by this section. In addition, before disbursing the funds, the Office of State Budget and Management may require the grantee to supply information demonstrating that the grantee is capable of managing the funds in accordance with law and has established adequate financial procedures and controls. All financial statements furnished to the State Auditor pursuant to this section, and any audits or other reports prepared by the State Auditor, are public records.

(b) State Agency Reports. -- A State agency that receives State funds and then disburses the State funds to a grantee must identify the grantee to the State Auditor, unless the funds were for the purchase of goods and services. The State agency must submit documents to the State Auditor in a prescribed format describing standards of compliance and suggested audit procedures sufficient to give adequate direction to independent auditors performing audits.

(c) Grantee Receipt and Expenditure Reports. -- A grantee that receives, uses, or expends between fifteen thousand dollars (\$15,000) and ~~one hundred thousand dollars (\$100,000)~~ three hundred thousand dollars (\$300,000) in State funds annually, except when the funds are for the

purchase of goods or services, must file annually with the State agency that disbursed the funds a sworn accounting of receipts and expenditures of the State funds. This accounting must be attested to by the treasurer of the grantee and one other authorizing officer of the grantee. The accounting must be filed within six months after the end of the grantee's fiscal year in which the State funds were received. The accounting shall be in the form required by the disbursing agency. Each State agency shall develop a format for these accountings and shall obtain the State Auditor's approval of the format.

(d) **Grantee Audit Reports.** -- A grantee that receives, uses, or expends State funds in the amount of ~~one hundred thousand dollars (\$100,000)~~ three hundred thousand dollars (\$300,000) or more annually, except when the funds are for the purchase of goods or services, must file annually with the State Auditor a financial statement in the form and on the schedule prescribed by the State Auditor. The financial statement must be audited in accordance with standards prescribed by the State Auditor to assure that State funds are used for the purposes provided by law.

(e) **Federal Reporting Requirements.** -- Federal law may require a grantee to make additional reports with respect to funds for which reports are required under this section. Notwithstanding the provisions of this section, a grantee may satisfy the reporting requirements of subsection (c) of this section by submitting a copy of the report required under federal law with respect to the same funds or by submitting a copy of the report described in subsection (d) of this section.

(f) **Audit Oversight.** -- The State Auditor has audit oversight, pursuant to Article 5A of Chapter 147 of the General Statutes, of every grantee that receives, uses, or expends State funds. Such a grantee must, upon request, furnish to the State Auditor for audit all books, records, and other information necessary for the State Auditor to account fully for the use and expenditure of State funds. The grantee must furnish any additional financial or budgetary information requested by the State Auditor."

Requested by: Representative Sherrill

UNC-A HIGHSMITH CENTER FUNDS

Section 34.12. If private funds are acquired to supplant the appropriation made in Section 34.1 of this act to the Board of Governors of The University of North Carolina for the Asheville Graduate Center Phase II, with the approval of the Board of Governors of The University of North Carolina, the Chancellor of the University of North Carolina at Asheville may reallocate these funds to be used for renovation of and expansion to the Highsmith Center at the University of North Carolina at Asheville.

Requested by: Senators Plyler, Perdue, Odom, Representatives Russell, G. Wilson

PROJECT COST INCREASE

Section 34.13. Upon the request of the administration of a State agency, department, or institution, the Director of the Budget may, when in the Director's opinion it is in the best interest of the State to do so, increase the cost of a capital improvement project. Provided, however, that if the

Director of the Budget increases the cost of a project, the Director shall report that action to the Joint Legislative Commission on Governmental Operations at its next meeting. The increase may be funded from gifts, federal or private grants, special fund receipts, excess patient receipts above those budgeted at University of North Carolina Hospitals at Chapel Hill, or direct capital improvement appropriations to that department or institution.

Requested by: Senators Plyler, Perdue, Odom, Representatives Russell, G. Wilson

NEW PROJECT AUTHORIZATION

Section 34.14. Upon the request of the administration of any State agency, department, or institution, the Governor may authorize the construction of a capital improvement project not specifically authorized by the General Assembly if such project is to be funded by gifts, federal or private grants, special fund receipts, excess patient receipts above those budgeted at University of North Carolina Hospitals at Chapel Hill, or self-liquidating indebtedness. Provided, however, that if the Director of the Budget authorizes the construction of such a capital improvement project, the Director shall report that action to the Joint Legislative Commission on Governmental Operations at its next meeting.

Requested by: Senators Plyler, Perdue, Odom, Representatives Russell, G. Wilson

ADVANCE PLANNING OF CAPITAL IMPROVEMENT PROJECTS

Section 34.15. Funds that become available by gifts, excess patient receipts above those budgeted at University of North Carolina Hospitals at Chapel Hill, federal or private grants, receipts becoming a part of special funds by act of the General Assembly or any other funds available to a State department or institution may be utilized for advance planning through the working drawing phase of capital improvement projects, upon approval of the Director of the Budget. The Director of the Budget may make allocations from the Advance Planning Fund for advance planning through the working drawing phase of capital improvement projects, except that this revolving fund shall not be utilized by the Board of Governors of The University of North Carolina or the State Board of Community Colleges.

Requested by: Senators Plyler, Perdue, Odom, Representatives Russell, G. Wilson

APPROPRIATIONS LIMITS/REVERSION OR LAPSE

Section 34.16. Except as permitted in previous sections of this act, the appropriations for capital improvements made by the 1997 General Assembly may be expended only for specific projects set out by the 1997 General Assembly and for no other purpose. Construction of all capital improvement projects enumerated by the 1997 General Assembly shall be commenced, or self-liquidating indebtedness with respect to them shall be incurred, within 12 months following the first day of the fiscal year in which the funds are available. If construction contracts on those projects have not been awarded or self-liquidating indebtedness has not been incurred within that period, the direct appropriation for those projects shall revert to the original source, and

the self-liquidating appropriation shall lapse; except that direct appropriations may be placed in a reserve fund as authorized in this act. This deadline with respect to both direct and self-liquidating appropriations may be extended with the approval of the Director of the Budget up to an additional 12 months if circumstances and conditions warrant such extension.

PART XXXV. MISCELLANEOUS PROVISIONS

Requested by: Senators Plyler, Perdue, Odom, Representatives Holmes, Creech, Esposito, Crawford

EXECUTIVE BUDGET ACT APPLIES

Section 35. The provisions of the Executive Budget Act, Chapter 143, Article 1 of the General Statutes, are reenacted and shall remain in full force and effect and are incorporated in this act by reference.

Requested by: Senators Plyler, Perdue, Odom, Representatives Holmes, Esposito, Creech, Crawford

COMMITTEE REPORT

Section 35.1. (a) The Conference Report on the Continuation, Expansion and Capital Budgets, dated August 27, 1997, which was distributed in the Senate and the House of Representatives and used to explain this act, shall indicate action by the General Assembly on this act and shall therefore be used to construe this act, as provided in G.S. 143-15 of the Executive Budget Act, and for these purposes shall be considered a part of this act and as such shall be printed as a part of the Session Laws.

(b) The budget enacted by the General Assembly for the maintenance of the various departments, institutions, and other spending agencies of the State for the 1997-99 fiscal biennium is a line item budget, in accordance with the Budget Code Structure and the State Accounting System Uniform Chart of Accounts set out in the Administrative Policies and Procedures Manual of the Office of the State Controller. This budget includes the appropriations made from all sources including the General Fund, Highway Fund, special funds, cash balances, federal receipts, and departmental receipts.

The General Assembly amended the itemized budget requests submitted to the General Assembly by the Director of the Budget and the Advisory Budget Commission, in accordance with the steps that follow and the line item detail in the budget enacted by the General Assembly may be derived accordingly:

- (1) The negative reserve set out in the submitted budget was deleted and the totals were increased accordingly.
- (2) The base budget was adjusted in accordance with the base budget cuts and additions that were set out in the Conference Report on the Continuation, Expansion and Capital Budgets, dated August 27, 1997, together with any accompanying correction sheets.
- (3) Transfers of funds supporting programs were made in accordance with the Conference Report on the Continuation, Expansion and Capital Budgets, dated August 27, 1997, together with any accompanying correction sheets.

The budget enacted by the General Assembly shall also be interpreted in accordance with the special provisions in this act and in accordance with other appropriate legislation.

In the event that there is a conflict between the line item budget certified by the Director of the Budget and the budget enacted by the General Assembly, the budget enacted by the General Assembly shall prevail.

Requested by: Senators Plyler, Perdue, Odom, Representatives Holmes, Creech, Esposito, Crawford

MOST TEXT APPLIES ONLY TO 1997-99

Section 35.2. Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 1997-99 fiscal biennium, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 1997-99 fiscal biennium.

Requested by: Senators Plyler, Perdue, Odom, Representatives Holmes, Creech, Esposito, Crawford

EFFECT OF HEADINGS

Section 35.3. The headings to the parts and sections of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act, except for effective dates referring to a Part.

Requested by: Senators Plyler, Perdue, Odom, Representatives Holmes, Creech, Esposito, Crawford

SEVERABILITY CLAUSE

Section 35.4. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

Requested by: Senators Plyler, Perdue, Odom, Representatives Holmes, Creech, Esposito, Crawford

EFFECTIVE DATE

Section 35.5. Except as otherwise provided, this act becomes effective July 1, 1997.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law upon approval of the Governor at 1:30 p.m. on the 28th day of August, 1997.

S.B. 624

CHAPTER 444

AN ACT TO INCORPORATE THE TOWN OF SEDALIA.

The General Assembly of North Carolina enacts:

Section 1. A Charter for the Town of Sedalia is enacted to read:

"CHARTER OF THE TOWN OF SEDALIA.

"CHAPTER I.

"INCORPORATION AND CORPORATE POWERS.

"Section 1.1. **Incorporation and Corporate Powers.** The inhabitants of the Town of Sedalia are a body corporate and politic under the name 'Town of Sedalia'. Under that name they have all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general law of North Carolina.

"CHAPTER II.

"CORPORATE BOUNDARIES.

"Sec. 2.1. **Town Boundaries.** Until modified in accordance with law, the boundaries of the Town of Sedalia are as follows:

BEGINNING at a point, said point being in the south right-of-way line of Bethel Church Road, said point being the northwest corner of Guilford County Tax Map ACL 18-1173, Block 242, Lot 24; thence running along said right-of-way line in an easterly direction a distance of approximately 1,500 feet to the northeast corner of Lot 7 on Guilford County Tax Map ACL 18-1173, Block 242; thence along the eastern line of said Lot 7 a distance of approximately 290 feet to a point, said point being in the northern line of Sedalia Country Park Subdivision; thence in an easterly direction along the northern line of Sedalia Country Park Subdivision and the southern property lines of Guilford County Tax Map ACL 18-1173, Block 242, Lots 4, 15, and 52 and Block 207, Lot 8 a distance of approximately 3340 feet to a point, said point being the northeast corner of Guilford County Tax Map ACL 18-1173, Block 207, Lot 19; thence along the eastern lines of Lots 19 and 11 of said Block in a southerly direction a distance of approximately 1660 feet to a point, said point being the northwest corner of College Heights Subdivision, said point also being the southwest corner of said Block 207, Lot 12; thence in an easterly direction along the northern line of College Heights Subdivision, as recorded in P.B. 34, Page 54 in the Office of Guilford County Register of Deeds, a distance of approximately 1850 feet to a point in the west right-of-way line of Sedalia Road; thence in an easterly direction a distance of approximately 60 feet to a point in the east right-of-way line of Sedalia Road at the southwest corner of Guilford County Tax Map ACL 18-1173, Block 207, Lot 17; thence in an easterly direction along the southern lines of lots 17 and 2 of said block a distance of approximately 970 feet to a point, said point being the southeast corner of said Lot 2; thence South 84°41' East a distance of 839 feet to a point; thence South 65°46' West a distance of 229 feet to a point; thence South 57°03' West a distance of 298 feet to a point; thence South 38°22' West a distance of 248 feet to a point; thence South 13°19' West a distance of 136 feet to a point; thence South 63°02' West a distance of 585 feet to a

point; thence South 28°14' East a distance of 443 feet to a point; thence South 04°47' West a distance of 1,151 feet to a point, said point being a common corner with Stoney Creek Golf Course; thence South 88°16' East along the western golf course line a distance of 154 feet to a point; thence South 03°06' East a distance of 620 feet to a point; thence South 70°34' West a distance of 234 feet to a point; thence South 30°53' East a distance of 544 feet to a point; thence South 06°26' West a distance of 341 feet to a point; thence South 49°11' West a distance of 630 feet to a point; thence South 36°48' East a distance of 207 feet to a point; thence South 23°01' West a distance of 1705 feet to a point, a common corner with Totten Subdivision; thence South 60°01' East with the Totten Subdivision a distance of 339 feet to a point; thence North 32°12' East a distance of 37 feet to a point; thence South 58°21' East a distance of 387 feet to a point; thence South 36°44' West a distance of 382 feet to a point; thence South 50°12' East a distance of 81 feet to a point; thence South 23°28' West a distance of approximately 170 feet to a point on the north right-of-way line of Burlington Road; thence along said right-of-way line in a westerly direction a distance of 124 feet to a point; thence in a southwesterly direction, crossing Burlington Road, a distance of approximately 100 feet to the northeast corner of Guilford County Tax Map ACL 18-1175, Block 209, Lot 42; thence in a southwesterly direction along the eastern lines of Guilford County Tax Map ACL 18-1175, Block 209, Lots 42, 41, and 40 a distance of approximately 580 feet to a point, said point being the southeast corner of said Lot 40; thence in a northwesterly direction along the southern lines of Guilford County Tax Map ACL 18-1175, Block 209, Lots 40, 10, 39, 35, 36, 37, 21 and 56 a distance of approximately 1860 feet to the western line of Lot 15 on said Block 209; thence in a southerly direction of distance of approximately 120 feet along the eastern line of said Lot 15 to the southeast corner of Lot 15; thence in a westerly direction along the southern lines of Lots 15 and 32 of said Block 209 a distance of approximately 690 feet to a point, said point being a common corner of Lots 32 and 63 of said Block 209, thence in a southerly direction along the western lines of Lots 63 and 4 of said Block 209 a distance of approximately 1100 feet to a point; thence in a westerly direction along a portion of the western line of said Lot 4 a distance of approximately 190 feet to a point, said point being the northeast corner of Guilford County Tax Map ACL 18-1175, Block 209, Lot 64; thence in a southerly direction along the eastern line of Lot 64, and a projection of that line crossing Lot 4 of said block, a distance of approximately 460 feet to a point, said point being in the northern line of Guilford County Tax Map ACL 18-1175, Block 209, Lot 51; thence in an easterly direction a distance of approximately 480 feet along the northern line of said Lot 51 to a point, said point being the northeast corner of said Lot 51; thence in a southerly direction along the eastern lines of Lots 51, 48, and 61 of said Block 209 a distance of approximately 330 feet to a point, said point being the southeast corner of said Lot 61; thence in a westerly direction a distance of approximately 260 feet to a point, said point being the northeast corner of Lot 55 of said Block 209; thence in a southwesterly direction a distance of approximately 260 feet along the eastern line of said Lot 55 to a point; thence in a westerly direction along the

southern line of said Lot 55 and crossing Palmer Road, a distance of approximately 240 feet to a point in the west right-of-way line of Palmer Road; thence in a northerly direction along said right-of-way line a distance of approximately 1900 feet to a point, said point being the southeast corner of Guilford County Tax Map ACL 18-1175, Block 240, Lot 24; thence in a westerly direction along the southern line of said Lot 24 a distance of approximately 1100 feet to a point in the eastern line of Lot 8 of said Block 240, thence along the common line of said Lots 8 and 24 in a northerly direction a distance of approximately 460 feet to the northeast corner of said Lot 8; thence in a westerly direction along the northern line of said Lot 8 a distance of approximately 1200 feet to a point, said point being the southwest corner of Lot 22 of said Block 240; thence in a northerly direction along the common line of Lots 22 and 8 of said block a distance of approximately 1060 feet to a point, said point being in the south right-of-way line of Burlington Road; thence along said right-of-way line in a northwesterly direction a distance of approximately 560 feet to a point in the west right-of-way line of Bloomfield Road; thence in a southerly direction along said west right-of-way line a distance of approximately 220 feet to a point; said point being the northeast corner of Guilford County Tax Map ACL 18-1175, Block 240, Lot 21; thence in a westerly direction along the northern line of said Lot 21 a distance of approximately 580 feet to the northwest corner of said Lot 21; thence in a northerly direction along the western line of Block 241, Lot 41 a distance of approximately 430 feet to the northwest corner of said Lot 41; thence in an easterly direction along the northern line of said Lot 41 a distance of approximately 300 feet to a point in the south right-of-way line of Burlington Road; thence along said right-of-way line in a northwesterly direction a distance of approximately 420 feet to a point on the southern line of Guilford County Tax Map ACL 18-1175, Block 241, Lot 28; thence in a westerly direction along the southern lines of Lots 28 and 10 of said Block 241 a distance of approximately 970 feet to the southwest corner of said Lot 10; thence in a northerly direction along the western lines of Lots 10 and 25 of said Block 241 a distance of approximately 450 feet to a point; thence in a northwesterly direction along the southwestern line of Lot 24 of said Block 241 a distance of approximately 90 feet to a point; thence in a northeasterly direction along the northwestern line of said Lot 24 a distance of approximately 380 feet to a point, said point being in the south right-of-way line of Burlington Road; thence in a southeasterly direction along said right-of-way line a distance of approximately 230 feet to a point, said point being on a common property line of Lots 25 and 24 of said block; thence in a northeasterly direction, crossing Burlington Road, a distance of approximately 60 feet to the westernmost corner of Lot 26 of said Block 241; thence following the northern line of said Lot 26 a distance of approximately 680 feet in a northeasterly direction to a point, said point being the southwest corner of Imperial Estates Subdivision; thence in a northerly direction along the western line of Imperial Estates Subdivision a distance of approximately 990 feet to a point; thence along the northwestern line of said subdivision a distance of approximately 1,040 feet in a northeasterly direction to the northwest corner of said subdivision; thence in a westerly direction along the southern line of Guilford County Tax Map

ACL 18-1173, Block 242, Lot 46 a distance of approximately 50 feet to a point; thence along the southwestern lines of Lots 46, 14 and 13 of said Block 242 in a northwesterly direction a distance of approximately 600 feet to a point; thence along the southern line of said Lot 13 in a westerly direction a distance of approximately 390 feet to a point, said point being the southwest corner of Lot 13; thence in a northerly direction along the western lines of Guilford County Tax Map ACL Map 18-1173, Block 242, Lots 13, 12, 11, 10, 35 and 30 a distance of approximately 1700 feet to a point, said point being the southeast corner of Lot 23 of said Block 242; thence in a southwesterly direction along the south line of said Lot 23 a distance of approximately 430 feet to the southwest corner of said Lot 23; thence in a northerly direction along the western lines of Lots 23, 28 and 24 of said Block 242 a distance of approximately 1140 to a point; thence in a westerly direction a distance of approximately 100 feet along said Lot 24 to a point; thence in a northerly direction a distance of approximately 140 feet along the western line of said Lot 24 to a point in the south right-of-way line of Bethel Church Road, said point being the POINT OF BEGINNING.

"Sec. 2.2. **Annexations.** (a) Article 4A of Chapter 160A of the General Statutes does not apply to the Town of Sedalia until July 1, 2017.

(b) G.S. 160A-58.1(b)(2) shall not apply to the City of Greensboro as it relates to the Town of Sedalia.

"CHAPTER III.

"GOVERNING BODY.

"Sec. 3.1. **Structure of Governing Body; Number of Members.** The governing body of the Town of Sedalia is the Town Council, which has five members.

"Sec. 3.2. **Manner of Electing Council.** The qualified voters of the entire Town elect the members of the Council.

"Sec. 3.3. **Term of Office of Council Members.** Members of the Council are elected to four-year terms. In 1997 and quadrennially thereafter, three members of the Council shall be elected for four-year terms. In 1999 and quadrennially thereafter, two members of the Council shall be elected for four-year terms.

"Sec. 3.4. **Election of Mayor; Term of Office.** At the organizational meeting of the Council following each election, the Council shall elect one of its members to serve as Mayor. The Mayor serves as such at the pleasure of the Council.

"CHAPTER IV.

"ELECTIONS.

"Sec. 4.1. **Conduct of Town Elections.** Town officers shall be elected on a nonpartisan basis. Elections shall be conducted in accordance with Chapter 163 of the General Statutes.

"Sec. 4.2. **Determination of Election Results.** The results of election of officers shall be determined by a plurality as provided in G.S. 163-292.

"CHAPTER V.

"ADMINISTRATION.

"Sec. 5.1. **Town to Operate Under Mayor-Council Plan.** The Town of Sedalia operates under the Mayor-Council plan as provided in Part 3 of Article 7 of Chapter 160A of the General Statutes."

Section 2. (a) Until the organizational meeting of the Town Council of Sedalia following the 1997 municipal election, Ruth Smith, Skip Corley, Myra Lynn, Henry Blackmon, and Duane Bryant shall serve as members of the Town Council. Ruth Smith, Henry Blackmon, and Duane Bryant serve until the organizational meeting after the 1997 election. Skip Corley and Myra Lynn serve until the organizational meeting after the 1999 election.

(b) Ruth Smith shall serve as Mayor until the organizational meeting of the Town Council after the 1997 election, except that she shall serve at the pleasure of the Town Council as if she had been chosen by them under Section 3.4 of the Charter.

(c) The initial meeting of the Town Council shall be called by the clerk to the Guilford County Board of Commissioners.

Section 3. From and after the effective date of this act, the citizens and property in the Town of Sedalia shall be subject to municipal taxes levied for the year beginning July 1, 1997, and for that purpose the Village shall obtain from Guilford County a record of property in the area herein incorporated which was listed for taxes as of January 1, 1997; and the businesses in the town shall be liable for privilege license tax from the effective date of the privilege license tax ordinance. The Town may adopt a budget ordinance for fiscal year 1997-98 without following the timetable in the Local Government Budget and Fiscal Control Act, but shall follow the sequence of actions in the spirit of the act insofar as is practical. For fiscal year 1997-98, ad valorem taxes may be paid at par or face amount within 90 days of adoption of the budget ordinance, and thereafter in accordance with the schedule in G.S. 105-360 as if the taxes had been due and payable on September 1, 1997. The Town of Sedalia is eligible to receive distributions of State funds during fiscal year 1997-98.

Section 4. (a) The Guilford County Board of Elections shall establish a special candidate filing period for the Town of Sedalia for the 1997 municipal election.

(b) The Guilford County Board of Elections may establish a special election date for the 1997 municipal election for the Town of Sedalia.

Section 5. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law on the date it was ratified.

S.B. 683

CHAPTER 445

AN ACT TO AUTHORIZE THE DURHAM CITY COUNCIL TO DELEGATE TO THE CITY MANAGER THE AUTHORITY TO APPROVE THE PAYMENT OF FACILITIES FEES IN INSTALLMENTS, TO AUTHORIZE THE CITY OF BURLINGTON TO DISPOSE OF CERTAIN PROPERTY BY PRIVATE SALE, AND CONCERNING ZONING IN ALAMANCE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Section 115.6(b) of the Charter of the City of Durham, being Chapter 671 of the 1995 Session Laws, as added by Chapter 476 of the 1989 Session Laws and rewritten by Chapter 992 of the 1991 Session Laws, reads as rewritten:

"(b) The City Council may permit the payment of a facilities fee in a lump sum or in equal monthly or annual installments over a period of time not to exceed 10 years. The city council may delegate authority to the city manager, or designee of the city manager, to authorize the payment of a facilities fee in installments when requested by the person who is responsible for paying the fee. If paid in installments, such installments shall bear interest at a rate fixed by the City Council of not more than nine percent (9%) per annum from the date when ~~payment by lump sum would have otherwise been due.~~ the City approves payment of the facilities fee in installments. The facilities fee, with accrued interest, may be paid in full at any time."

Section 2. Notwithstanding Article 12 of Chapter 160A of the General Statutes, the City of Burlington, North Carolina, may convey certain real property, now declared surplus real property, at a negotiated private sale to HABITAT FOR HUMANITY OF ALAMANCE COUNTY, N.C., INC., with monetary consideration, any and all of its rights, title, and interest to the following described property:
A certain tract or parcel of land in Burlington Township, Alamance County, adjoining Gunn Street, Richmond Avenue and the lands of Grace M. Jones, Mary Belle Wilson and Lots 25 and 28 and being more particularly described as follows:

BEGINNING at a corner with Mary Belle Wilson and Lot No. 28 in the line of Grace M. Jones and Lot No. 25 and running thence from said beginning point with the line of Mary Belle Wilson and Lot No. 28 south 87 deg. 45' east 185' to a point in the west right-of-way line of Richmond Avenue; thence with the west right-of-way line of Richmond Avenue south 2 deg. 03' west 50.00' to the intersection of the west right-of-way line of Richmond Avenue and the north right-of-way line of Gunn Street; thence with the west right-of-way line of Gunn Street north 87 deg. 45' west 185' to a corner with Grace M. Jones; thence with the line of Grace M. Jones and Lot No. 25 north 2 deg. 03' east 50.00' to the BEGINNING and being part of Lot No. 27, subdivision of the Manly Brooks Property on Richmond Hill recorded in Plat Book 1, Page 53, in the office of the Alamance County Register of Deeds.

Section 2.1. (a) In addition to the powers granted by the last paragraph of G.S. 153A-342, a county shall, if approved by the voters of a precinct under subsection (b) of this section, designate that precinct as a zoning area unless that area is within the zoning jurisdiction of a municipality, provided that if only a part of the precinct is within the zoning jurisdiction of a municipality, the county shall act under this section as to the remainder of the precinct. A zoning area shall be regulated in the same manner as if the entire county were zoned, and the remainder of the county need not be regulated. Subsequent changes in the boundaries of the precinct do not change the boundaries of the zoning area.

(b) Upon the petition of thirty-five percent (35%) of the registered voters living in a precinct, the board of county commissioners of the county shall call an election in said precinct for the purpose of submitting to the qualified voters therein the question of adopting a zoning ordinance applicable to that precinct. If the voters reject the question, then no new election may be held under this section within two years on the question of zoning in that precinct.

(c) This section applies to Alamance County only.

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law on the date it was ratified.

S.B. 711

CHAPTER 446

AN ACT TO INCORPORATE THE TOWN OF GRANTSBORO.

The General Assembly of North Carolina enacts:

Section 1. A Charter of the Town of Grantsboro is enacted as follows:

"THE CHARTER OF THE TOWN OF GRANTSBORO.

"CHAPTER I.

"INCORPORATION AND CORPORATE POWERS.

"Section 1-1. **Incorporation.** The inhabitants of the Town of Grantsboro are a body corporate and politic under the name 'Town of Grantsboro'. Under that name they have all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general law of North Carolina.

"CHAPTER II.

"CORPORATE BOUNDARIES.

"Section 2-1. **Town Boundaries.** Until modified in accordance with the law, the boundaries of the Town of Grantsboro are as follows:

Beginning at the intersection of the centerline of the right-of-way of NC 55 and the western boundary of the corporate limits of the City of Alliance, and running thence in a southerly direction, contiguous with the corporate limits of Alliance, to a point on the South Prong of Bay River, south of Bay River Road (NCSR 1347);

Thence in a southwest direction along the South Prong of Bay River to the western boundary of Tax Parcel 14, Property of Jeffrey and Billy H. Holton as recorded on Tax Map F05 in DB 304, page 202;

Thence north along the western boundary of Tax Parcel 14 for 300 feet, more or less, to the northeast corner of Tax Parcel 34, Property of Rhoda Scott Dixon on Tax Map F051 in DB 170, page 181;

Thence westwardly along the northern boundary of Tax Parcel 34 to a point 1,000 feet east of the centerline of NC 306;

Thence in a southerly direction along a line parallel to and 1,000 feet east of the centerline of NC 306 to the southern boundary of Tax Parcel 52, Property of Geneva Parsons' Heirs on Tax Map F052, in DB 99, page 264;

Thence west along the southern boundary of Tax Parcel 52 to the centerline of NC 306;

Thence south 150 feet, more or less, along the centerline of NC 306 to the intersection of the centerlines of NC 306 and Scott's Store Road (NCSR 1108);

Thence west along the centerline of Scott's Store Road to Deep Run Branch;

Thence along the center of Deep Run Branch 1,250 feet, more or less, in a northwesterly direction to the northwest corner of Tax Parcel 19, Property of M.T. Whitford on Tax Map E05 in DB 124, page 271;

Thence in an easterly direction along the northern boundary of Tax Parcels 19, 15, 14, all on Tax Map E05, and Tax Parcels 33 and 37, both on Tax Map F052, to a point 1,000 feet west of NC 306;

Thence north along a line parallel to and 1,000 feet west of NC 306 to the southern edge of the Tideland EMC right-of-way which follows the old Bay River Road roadbed west of NC 306 to Keys Town Road (NCSR 1106);

Thence along the southern boundary of the Tideland EMC right-of-way to Keys Town Road;

Thence, 1,200 feet south, more or less, to a forest access road and the northwest corner of Tax Parcel 92, Property of Nora M. Lawson and Angelo B. Murrell on Tax Map E05 in DB 215, page 149;

Thence eastwardly along the northern boundary of Tax Parcels 92 and 93, both on Tax Map E05, to the northeast corner of 93;

Thence south along the eastern boundary of Tax Parcels 93, 89, 78, and 74, all on Tax Map E05, to the southeast corner of 74;

Thence westwardly along the southern boundary of Tax Parcels 74, 72 and 102, all on Tax Map E05, to Goose Creek;

Thence north along the center of Goose Creek to the centerline of NC 55;

Thence eastwardly 2,100 feet, more or less, along the centerline of NC 55 to the intersection of Tax Parcel 12, Property of Booker T. and Loretta Jones on Tax Map E05, DB 235, page 774 and the right-of-way of NC 55;

Thence in a northeast direction along the common boundary of Tax Parcels 12 and 14, both on Tax Map E04, and 65 on Tax Map E05 to Tax Parcel 13 on Tax Map E04;

Thence in a northwesterly and northeasterly direction around the perimeter of Tax Parcel 13 to a point on the southern boundary of Tax Parcel 31, Property of Weyerhaeuser Co. on Tax Map E04, DB 110, page 550;

Thence around the perimeter of Tax Parcel 31 in an easterly and northerly direction to Tax Parcel 3, Property of PCS Phosphate on Tax Map E03 in DB 305, page 831 at a point 950 feet west, more or less, from NC 306;

Thence across Tax Parcel 3 in a northerly direction to the southeast corner of Tax Parcel 33, Morris Logging Co. on Tax Map F041;

Thence along the common boundary of Tax Parcels 33 and 3 in a westwardly direction to the southwest corner of 33;

Thence along the eastern boundary of Tax Parcel 3 in a northerly direction to the northwest corner of Tax Parcel 42, Property of Bay Creek Trucking Inc. on Tax Map E031 in DB 275, page 795;

Thence east, 1000 feet, more or less, along the northern boundary of Tax Parcel 42 to the centerline of NC 306;

Thence southwardly 700 feet, more or less, along the centerline of NC 306 to a point which is the northern boundary of Tax Parcel 43 on Tax Map E031 extending to said road right-of-way;

Thence east along the northern boundary of Tax Parcels 43, 46, 47, 48, 48-1, all on Tax Map E031, to the northeast corner of 48-1;

Thence south along the eastern boundary of Tax Parcels 48-1, 49, 54, 57, 58, 61 and 62, all on Tax Map E031, to the southeast corner of 62;

Thence westwardly along the southern boundary of Tax Parcel 62 to the northeastern corner of Tax Parcel 68 on Tax Map E031;

Thence south along the eastern boundary of Tax Parcels 68, 77, 79, and 86, all on Tax Map E031, to the centerline of Paul's Farm Road (NCSR 1243);

Thence east along the centerline of NCSR 1243 to the eastern boundary of CP&L Transmission Lines right-of-way;

Thence south, southeast and east along the eastern and northern boundary of the CP&L Transmission Lines right-of-way to the corporate limits of the City of Alliance;

Thence south along the western boundary of the corporate limits of the City of Alliance to the centerline of NC 55 and the starting point.

All descriptions are based on maps in the Pamlico County Tax Office as of March 6, 1997.

In the event that any of the territory described above is, on the date this Charter becomes effective, within the corporate limits of another town, or is subject to an annexation ordinance of another town that has been adopted but is not yet effective, this Charter removes that territory from the corporate limits of that other town.

"CHAPTER III.

"GOVERNING BODY.

"Section 3-1. **Structure of the Governing Body; Number of Members.** The governing body of the Town of Grantsboro is the Town Council which has five members.

"Section 3-2. **Manner of Electing Council.** The qualified voters of the entire Town nominate and elect the Council.

"Section 3-3. **Term of Office of Council Members.** Members of the Council are elected to two-year terms in 1997 and biennially thereafter.

"Section 3-4. **Mayor; Term of Office.** The Mayor shall be elected by the qualified voters of the Town in 1997 and biennially thereafter for a two-year term.

"CHAPTER IV.

"ELECTIONS.

"Section 4-1. **Elections.** Council members shall be elected on a plurality basis and the results determined in accordance with G.S. 163-292.

"Section 4-2. **Results.** Election results shall be determined by the Pamlico County Board of Elections according to Chapter 163 of the General Statutes.

"CHAPTER V.

"ADMINISTRATION.

"Section 5-1. **Mayor-Council Plan.** The Town of Grantsboro shall operate under the Mayor-Council Plan as provided in Part 3 of Article 7 of Chapter 160A of the General Statutes.

"Section 5-2. **Taxation and Funds.** The Town of Grantsboro is eligible to receive distributions of State funds during the fiscal year 1997-98."

Section 2. (a) From and after the effective date of Section 5 of this act, the citizens and property in the Town of Grantsboro shall be subject to municipal taxes levied for the year beginning July 1, 1997, and for that purpose the Town shall obtain from Pamlico County a record of property in the area herein incorporated which was listed for taxes as of January 1, 1997; and the businesses in the Town shall be liable for privilege license tax from the effective date of the privilege license tax ordinance.

(b) The Town may adopt a budget ordinance for fiscal year 1997-98 without following the timetable in the Local Government Budget and Fiscal Control Act but shall follow the sequence of actions in the spirit of the act insofar as is practical. For fiscal year 1997-98, ad valorem taxes may be paid at par or face amount within 90 days of adoption of the budget ordinance and thereafter in accordance with the schedule in G.S. 105-360 as if the taxes had been due and payable on September 1, 1997.

Section 3. Notwithstanding Sections 3-3 and 3-4 of the Charter of the Town of Grantsboro as set out in Section 5 of this act, the Pamlico County Board of Elections shall conduct the 1997 general election for Town Council and Mayor of Grantsboro at the same time as the incorporation referendum provided for by Section 8 of this act. In the election, if a majority of the votes are cast "FOR incorporation of the Town of Grantsboro", the persons elected shall serve terms ending at the organizational meeting after the 1999 municipal election. The Pamlico County Board of Elections shall adopt a special filing period for the election. As absentee balloting is allowed by law for the incorporation referendum under G.S. 163-302, it shall also be allowed for election of officers at that election. In the election, if a majority of the votes are not cast "FOR incorporation of the Town of Grantsboro", then the election of Town Council and Mayor is void.

Section 4. (a) The Pamlico County Board of Elections shall conduct an election on a date set by the Pamlico County Board of Elections for the purpose of submission to the qualified voters of the area described in Section 2-1 of the Charter of the Town of Grantsboro the question of whether or not such area shall be incorporated as the Town of Grantsboro. The date of the election shall be not less than 60 days nor more than 120 days after the date this act becomes law. Registration for the election shall be conducted in accordance with G.S. 163-288.2.

(b) In the election, the question on the ballot shall be:

"[] FOR [] AGAINST

Incorporation of the Town of Grantsboro".

Section 5. In the election, if a majority of the votes are cast "FOR incorporation of the Town of Grantsboro", Sections 5 and 6 of this act become effective on the date of the certification of the results of the election. Otherwise, Sections 5 and 6 of this act have no force and effect.

Section 6. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law on the date it was ratified.

S.B. 719

CHAPTER 447

AN ACT TO MODIFY THE PURPOSES FOR WHICH THE GOLDSBORO ROOM OCCUPANCY TAX MAY BE USED AND TO MAKE TECHNICAL AND CONFORMING CHANGES.

The General Assembly of North Carolina enacts:

Section 1. Sections 2 through 9 of Chapter 555 of the 1991 Session Laws read as rewritten:

"Sec. 2. Levy of Tax. The City of Goldsboro may by resolution, after not less than 10 days public notice and after a public hearing held pursuant thereto, levy a room occupancy and tourism development tax. Collection of the tax, and liability, therefore, shall begin and continue only on and after the first day of a calendar month set in the resolution levying the tax, which in no case may be earlier than the first day of the second succeeding calendar month after the date of adoption of the resolution.

Sec. 3. Rate; Scope. The room occupancy and tourism development tax that may be levied under this act shall not be less than three percent (3%) nor more than five percent (5%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by any hotel, motel, inn, tourist camp, or other similar place within the levying unit now subject to the three percent (3%) sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax.

Sec. 4. Exemptions. The tax authorized by this act does not apply to gross receipts derived by the following entities from accommodations furnished by them:

- (1) Religious organizations;
- (2) A business that offers to rent fewer than five units;
- (3) Educational organizations;
- (4) Summer camps; and
- (5) Charitable, benevolent, and other nonprofit organizations.

Sec. 5. Administration of Tax. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section. (a) A tax levied under this act is due and payable to the city in monthly installments on or before the twenty-fifth day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the twenty-fifth day of each month, prepare and render a return on a form prescribed by the city. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied. A return filed under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.

~~(b) Any person, firm, corporation, or association who fails or refuses to file the return required by this act shall pay a penalty of fifty dollars (\$50.00) for each day's omission as provided under G.S. 160A-175.~~

~~(c) Any person who willfully attempts in any manner to evade the occupancy tax imposed by this act or to make a return or who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars (\$1,000), imprisonment not to exceed six months, or both.~~

~~Sec. 6. Collection of Tax. Every operator of a business subject to the tax levied by this act shall, on and after the effective date of the tax, collect the tax. The tax shall be collected as part of the charge for the furnishing of any taxable accommodations. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the governing bodies. The room occupancy tax levied pursuant to this act shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The city shall design, print, and furnish to all appropriate businesses in the city the necessary forms for filing returns and instructions to ensure the full collection of the tax.~~

~~Sec. 7. Disposition of Taxes Collected. (a) Feasibility Study. After levying a tax under this act, the City of Goldsboro shall place the net proceeds of the tax in a special fund. 'Net proceeds' means gross proceeds less the cost to the city of collecting and administering the tax. When sufficient proceeds have been accumulated in the special fund, the city council shall create a citizens' advisory committee to conduct a study of the feasibility of the construction of a civic center in Goldsboro. The citizens' advisory committee shall be composed of either five or seven members, as determined by the city council. If the committee is composed of five members, three shall be appointed by the city council and two shall be appointed by the Chamber of Commerce of Wayne County. If the committee is composed of seven members, four shall be appointed by the city council and three shall be appointed by the Chamber of Commerce of Wayne County. The city shall remit no more than twenty percent (20%) of the net proceeds of the tax levied under this act to the Goldsboro Tourism Council created in Section 8 of this act. The Council shall use the proceeds to develop tourism, support services, and tourist-related events, and for any other appropriate activities to provide tourism-related facilities and attractions. The citizens' advisory committee shall use the remainder of the net proceeds of the tax levied under this act for a study of the feasibility of the construction of a civic center in Goldsboro.~~

~~(b) If Civic Center Feasible. If the Goldsboro City Council determines that the results of the feasibility study indicate that a civic center would be a viable alternative for the city, the proceeds of the tax levied under this act shall thereafter be used as provided in this subsection. The citizens' advisory committee created pursuant to subsection (a) of this section shall continue to serve in an advisory capacity to the Goldsboro City Council. The city shall use remit no more than twenty percent (20%) of the net proceeds of the tax levied under this act to the Goldsboro Tourism Council~~

created in Section 8 of this act. The Council shall use the proceeds to develop tourism, support services, and tourist-related events, and for any other appropriate activities to provide tourism-related facilities and attractions. ~~for development of tourism, support services, and tourist-related events and attractions.~~ The city shall use the remainder of the net proceeds for improving, leasing, constructing, financing, operating, or acquiring facilities and properties as needed to provide for a civic center facility for Goldsboro. The city may contract with any person, firm, or agency to assist it in carrying out the purposes provided in this subsection.

(c) If Civic Center Not Feasible at Present. If the Goldsboro City Council determines that the results of the feasibility study indicate that a civic center would not be a viable alternative for the city at present or without the participation of other governmental, educational, or nonprofit entities, then the city may, on a monthly basis, remit up to fifty percent (50%) of the net proceeds of the tax to the Goldsboro Tourism Council created in Section 8 of this act. The Council shall use the proceeds to develop tourism, support services, and tourist-related events, and for any other appropriate activities to provide tourism-related facilities and attractions. The remaining net proceeds of the tax shall be invested in a special interest bearing fund and held by the city for improving, leasing, constructing, financing, operating, or acquiring facilities and properties, either by the city or in conjunction with other governmental, educational, or nonprofit entities. Thereafter, if the Goldsboro City Council determines that a civic center would be a viable alternative for the city, then a citizens' advisory committee shall be again created, if it has been disbanded, pursuant to subsection (a) of this section, and the provisions of subsection (b) of this section shall apply. Further, the citizens' advisory committee may conduct additional feasibility studies as it deems necessary. If the Goldsboro City Council later determines that a civic center would not be a viable alternative for the city, then the provisions of subsection (d) of this section shall apply.

(d) If Civic Center Not Feasible. If the Goldsboro City Council determines that the results of the feasibility study indicate that a civic center would not be a viable alternative for the city, the proceeds of the tax levied under this act shall thereafter be used as provided in this subsection. The citizens' advisory committee created pursuant to subsection (a) of this section shall be disbanded. The city shall, on a monthly basis, remit the net proceeds of the tax to the Goldsboro Tourism Council created in Section 8 of this act. The Council shall use the proceeds to develop tourism, support services, and tourist-related events, and for any other appropriate activities to provide tourism-related facilities and attractions.

Sec. 8. Goldsboro Tourism Council. ~~(a) If the~~ The Goldsboro City Council determines that the results of the feasibility study indicate that a civic center would not be a viable alternative for the city, as provided in Section 7, it shall adopt a resolution creating a Goldsboro Tourism Council. The membership of the Goldsboro Tourism Council shall be appointed by the Goldsboro City Council as follows:

- (1) Three owners or operators of hotels, motels, or other taxable accommodations in the City of Goldsboro.

- (2) Three individuals who have demonstrated an interest in conventions and tourism development in the Goldsboro area, and who do not own or operate hotels, motels, or other taxable tourism accommodations.
- (3) Three ex officio members: the city manager, the executive vice-president of the Chamber of Commerce of Wayne County, and the mayor of the City of Goldsboro.

(b) All members of the Council shall serve without compensation. Travel expenses, as approved in the annual budget, may be provided by the Goldsboro Tourism Council. Vacancies in the Council shall be filled in the same manner as the original appointments. Members appointed to fill vacancies shall serve for the remainder of the unexpired term for which they are appointed to fill. Members shall serve three-year terms which will be staggered as provided by the city council; members may serve no more than two consecutive three-year terms. The members shall elect a chairperson and treasurer, who shall serve for a term of two years. The Council shall meet at the call of the chairperson and shall adopt rules of procedure to govern its meeting as provided by Robert's Rules of Order.

(c) The Goldsboro Tourism Council may contract with any person, firm, or agency to assist it in carrying out the purposes provided in this act. The Council shall prepare an annual budget and shall report quarterly and at the close of the fiscal year to the Goldsboro City Council on its receipts and expenditures for the preceding quarter and year in such detail as the city may require. An audit will be conducted as part of the city's audit contract.

~~Sec. 9. Repeal. A tax levied under this section may be repealed by a resolution adopted by the Goldsboro City Council. Repeal of a tax levied under this section shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this section does not affect a liability for a tax that was attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal."~~

Section 2. Municipal Administrative Provisions. Section 3 of S.L. 1997-410 reads as rewritten:

~~"Section 3. Municipal Administrative Provisions. G.S. 160A-215, as enacted by ratified House Bill 859 and ratified Senate Bill 585, 1997 General Assembly, S.L. 1997-361 and S.L. 1997-364, applies to the City of Cities of Goldsboro, Lumberton, Mount Airy, Airy, and Shelby, and to the municipalities in Brunswick County."~~

Section 3. This act is effective when it becomes law. Notwithstanding the provisions of G.S. 160A-215, a Goldsboro occupancy tax return for taxes that accrue before October 1, 1997, is due on the 25th day rather than the 15th day of the month following the month in which the tax accrues.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law on the date it was ratified.

H.B. 39

CHAPTER 448

AN ACT TO PROVIDE FOR THE INCORPORATION OF THE TOWN OF SWEPSONVILLE AND THE SIMULTANEOUS DISSOLUTION OF THE SWEPSONVILLE SANITARY DISTRICT, SUBJECT TO A REFERENDUM.

The General Assembly of North Carolina enacts:

Section 1. In accordance with G.S. 130A-81(1), the Town of Swepsonville is incorporated, and the Swepsonville Sanitary District is simultaneously dissolved. Such incorporation and dissolution are subject to referendum.

Section 2. A Charter for the Town of Swepsonville is enacted to read:

"CHARTER FOR THE TOWN OF SWEPSONVILLE.

"CHAPTER I.

"INCORPORATION AND CORPORATE POWERS.

"Section 1.1. Incorporation and Corporate Powers. The inhabitants of the Town of Swepsonville are a body corporate and politic under the name 'Town of Swepsonville'. Under that name they have all the powers, duties, rights, privileges, and immunities conferred and imposed upon cities by the general law of North Carolina.

"CHAPTER II.

"CORPORATE BOUNDARIES.

"Section 2.1. Town Boundaries. Until modified in accordance with law, the boundaries of the Town of Swepsonville are as follows:

Tract One:

A certain tract or parcel of land located in Thompson Township, Alamance County, North Carolina, and more particularly described as follows:

BEGINNING at a point located on State Highway 2158 at the center of a bridge across the Haw River in Alamance County, North Carolina; running thence from said point with SR 2158 the following courses and distances:

S. 84 deg. 36' E. 260.00 feet; S. 81 deg. 48' E. 98.76 feet; S. 75 deg. 16' E. 65.41 feet; S. 67 deg. 27' E. 97.49 feet; S. 56 deg. 56' E. 98.40 feet; S. 48 deg. 44' E. 89.37 feet; running thence in the vicinity of George Bason Road, the following courses and distances: N. 55 deg. 49' E. 251.06 feet; S. 16 deg. 00' E. 178.3 feet; N. 30 deg. 54' E. 778.2 feet; N. 86 deg. 40' E. 301.6 feet to a point in George Bason Road; running thence with an unnamed road, S. 14 deg. 12' E. 164.85 feet to a point; running thence N. 85 deg. 58' E. 168.9 feet to a point; running thence S. 10 deg. 22' E. 238.5 feet to a point; thence S. 6 deg. 16' W. 213.7 feet to a point; running thence N. 61 deg. 29' E. 836.7 feet to a point; running thence S. 35 deg. 33' W. 135.6 feet; running thence S. 47 deg. 20' E. 759.4 feet to a point; running thence in the vicinity of NC Highway 119 and NC Highway 54, the following courses and distances: N. 85 deg. 45' E. 330.00 feet; N. 82 deg. 53' E. 100.00 feet; N. 7 deg. 07' 27" W. 334.4 feet; N. 83 deg. 01' 53" E. 200.97 feet; N. 7 deg. 15' W. 66.06 feet; N. 82 deg. 45' E. 120.12 feet; S. 7 deg. 15' E. 583.22 feet to a point; N. 83 deg. 30' E. 193.11 feet; N. 70 deg. 19' E. 224.55 feet; N. 84 deg. 10' E. 90 feet; N.

4 deg. 485' W. 143.9 feet; N. 85 deg. 15' E. 528 feet; S. 89 deg. 16 E. 330.98 feet; N. 85 deg. 33' E. 778 feet; N. 63 deg. 03' E. 141.5 feet; N. 23 deg. 11' W. 272.25 feet; N. 26 deg. 57' W. 898.3 feet; N. 78 deg. 23' E. 331.3 feet to a point in N. C. Highway 54; thence N. 80 deg. 37' 40" E. 43.07 feet; N. 39 deg. 38' 20" E. 233.38 feet; N. 47 deg. 19' 10" E. 533.29 feet; N. 47 deg. 57' E. 1651.57 feet; S. 36 deg. 18' E. 1282.22 feet to a point in N. C. Highway 119; thence with N. C. Highway 119 S. 49 deg. 06' 42" W. 674.29 feet; continuing with N. C. Highway 119, S. 49 deg. 07' W. 540.00 feet; thence in the vicinity of N. C. Highway 119 the following courses and distances: S. 26 deg. 00' E. along an unnamed road, 283.2 feet; S. 49 deg. 02' W. 207.93 feet; S. 67 deg. 01' W. 105.76 feet; S. 49 deg. 02' W. 260 feet; N. 40 deg. 58' W. 50 feet; S. 49 deg. 02' W. 147.14 feet; S. 47 deg. 40' W. 74.69 feet; S. 00 deg. 48' E. 75.11 feet; S. 47 deg. 40' W. 1170 feet, crossing NC Highway 54 and SR 2164; S. 85 deg. 33' W. 1270 feet; S. 16 deg. 48' W. 113.34 feet; S. 89 deg. 37' W. 251.6 feet; N. 3 deg. 20' W. 85.53 feet; S. 86 deg. 38' W. 715.35 feet; N. 86 deg. 28' W. 70.24 feet; S. 1 deg. 25' E. 51 feet; S. 82 deg. 50' W. 108.5 feet; S. 1 deg. 25' E. 95 feet; S. 83 deg. 25' W. 262 feet; N. 2 deg. 20' W. 153.15 feet; S. 86 deg. 05' W. 353.88 feet; N. 1 deg. 25' W. 71.5 feet; S. 88 deg. 35' W. 148.5 feet; S. 52 deg. 13' W. 566.8 feet; S. 49 deg. 17' W. 334.5 feet; S. 48 deg. 02' W. 345 feet; running thence in the vicinity of SR 2158 the following courses and distances: S. 43 deg. 24' E. 48.3 feet; S. 50 deg. 04' W. 23 feet; S. 43 deg. 32' E. 367.27 feet; N. 38 deg. 29' E. 354.96 feet; S. 66 deg. 36' E. 135.06 feet; S. 20 deg. 54' W. 213.1 feet; S. 26 deg. 41' W. 100 feet; S. 35 deg. 12' W. 100 feet; S. 44 deg. 57' W. 35.48 feet; S. 43 deg. 16' E. 154.38 feet; N. 79 deg. 44' E. 9.69 feet; N. 68 deg. 44' E. 209.22 feet; N. 21 deg. 44' E. 42.24 feet; N. 30 deg. 09' E. 59.04 feet; N. 82 deg. 44' E. 138 feet; S. 38 deg. 14' W. 158.88 feet; S. 39 deg. 34' E. 364.3 feet; S. 61 deg. 34' E. 154.16 feet; S. 77 deg. 38' E. 330.64 feet; S. 04 deg. 17' W. 485.7 feet; S. 83 deg. 38' E. 724.10 feet; S. 0 deg. 11' E. 132 feet; N. 83 deg. 38' W. 330 feet; S. 0 deg. 11' E. 284.7 feet; S. 56 deg. 05' W. 357.9 feet to a point in SR 2158; running thence N. 35 deg. 24' W. 118.19 feet with SR 2158; thence S. 59 deg. 45' W. 513.1 feet; thence N. 33 deg. 54' W. 270.40 feet; thence N. 83 deg. 43' W. 394 feet; thence N. 1 deg. 24' E. 101.07 feet with SR 2198; thence N. 88 deg. 36' W. 200 feet; thence N. 1 deg. 24' E. 535 feet; thence N. 8 deg. 20' E. 259.45 feet; thence N. 65 deg. 46' 30" W. 100.54 feet; N. 60 deg. 57' W. 54.8 feet; N. 47 deg. 01' W. 59.7 feet, crossing Woodside Avenue; thence N. 52 deg. 14' 40" W. 59.90 feet; thence N. 6 deg. 59' E. 78.97 feet; thence N. 7 deg. 48' W. 176.48 feet; thence N. 89 deg. 52' W. 70.55 feet; thence S. 63 deg. 29' W. 580 feet; thence N. 87 deg. 20' W. 135 feet; thence N. 41 deg. 40' W. 100 feet; thence N. 36 deg. 00' W. 108.80 feet; thence S. 47 deg. 30' W. 87 feet; thence S. 75 deg. 03' W. 142.58 feet; thence N. 8 deg. 00' W. 487.7 feet; running thence S. 69 deg. 50' W. 285.0 feet to a point in the Haw River; running thence with the center of the Haw River 2,500 feet to the point of BEGINNING, and containing 313.40 acres, more or less, as shown on Boundary and Sanitary Sewer Map, Swepsonville Sanitary Sewer

District, dated October 25, 1983, and prepared by Alley, Williams, Carmen & King, Inc., Engineers and Architects, Job. No. 163-83.

Tract Two:

A certain tract or parcel of land located in Thompson Township, Alamance County, North Carolina, adjoining George Bason Road (SR2156), property owned by W.E. & Mary D. Kirkpatrick, Quarry Development Company, Lacy Overman and Juanita Wilson LaPrade, and being more particularly described as follows:

BEGINNING at a control corner located in the southern edge of the 60' right of way of George Bason Road (SR 2156), a corner with Juanita Wilson LaPrade and property owned by Quarry Development, further known as Stonehaven Subdivision, Section 1; running thence from said control corner along the southern edge of the 60' right of way of George Bason Road (SR 2156), the following courses and distances: N. 65 deg. 27' 26" E. 379.33 feet, N. 73 deg. 35' 15" E. 70.71 feet, N. 65 deg. 27' 26" E. 50 feet, N. 57 deg. 19' 38" E. 70.71 feet, N. 65 deg. 27' 26" E. 940.00 feet, N. 73 deg. 35' 15" E. 70.71 feet, N. 65 deg. 27' 26" E. 50 feet, N. 55 deg 15' 14" E. 71.06 feet and in a curve to the left the following courses and distances: N. 61 deg. 35' 03" E. a chord of 69.95 feet and a radius of 2922.99 feet, N. 59 deg. 25' 42" E. 150.00 chord with a radius of 2922.99, N. 56 deg. 06' 01" E. a chord distance of 189.50 feet, a radius of 2922.99 feet to a control corner; thence along the western edge of property owned by W.E. Kirkpatrick, the following courses and distances: S. 25 deg. 05' 16" E. 56.38 feet, S. 4 deg. 27' 23" W. 331.13 feet, S. 4 deg. 29' 00" W. 54.07 feet; thence along the western edge of property owned by Mary D. Kirkpatrick, S. 4 deg. 20' 00" W. 302.25 feet; thence along the northern edge of property owned by Quarry Development Company the following courses and distances: N. 85 deg. 40' 00" W. 184.18 feet, S. 31 deg. 32' 47" W. 89.41 feet, S. 65 deg. 27' 26" W. 753.86 feet, S. 46 deg. 54' 41" E. 280.00 feet, S. 60 deg. 06' 32" W. 184.39 feet, S. 51 deg. 46' 50" W. 50.08 feet, S. 43 deg. 34' 57" W. 610.71 feet; thence along the northern edge of property owned by Lacy Overman, N. 44 deg. 46' 01" W. 363.62 feet; thence S. 60 deg. 37' 15" W. 5.00 feet; thence along the eastern portion of property owned by Juanita Wilson LaPrade, the following courses and distances: N. 36 deg. 35' 46" W. 71.95 feet; N. 56 deg. 10' 16" E. 142.00 feet; thence N. 36 deg. 13' 01" W. 661.29 feet to the point of BEGINNING, and containing 32.41 acres, more or less, as depicted in a preliminary final plat, Section 1, Stonehaven Subdivision, by Thompson-Simmons, Inc., Surveyors, dated February 17, 1988.

Tract Three:

A certain tract or parcel of land located in Thompson Township, Alamance County, North Carolina, adjoining Bason Road, Piedmont Crescent Recreational and Development Company, Inc., and more particularly described as follows:

BEGINNING at an existing iron pipe located in the northern edge of the 60' right of way of Bason Road, a corner with property owned by Piedmont Crescent Recreational and Development Company, Inc., and Lot 1, Section 1 Quarry Hills Subdivision (Plat Book 38 at Page 54); thence running along the northern edge of Bason Road 60' right of way, S. 62 deg. 57' 01" W.

320.00 feet to an existing iron pipe; thence running along the western edge of Lot 4, Section 1 Quarry Hills Subdivision (Plat Book 38 at page 54), N. 27 deg. 02' 59" W. 181.38 feet to an existing iron pipe; thence running along the northern bounds of Lots 1 through 4, Section 1 Quarry Hills Subdivision, N. 63 deg. 39' 10" E. 322.59 feet to an existing iron pipe; thence running S. 26 deg. 13' 20" E. 177.44 feet to the point of BEGINNING and containing 1.323 acres, more or less.

This description is based on the plat recorded in the Office of the Register of Deeds for Alamance County, North Carolina in Plat Book 38 at page 54 by Thompson-Simmons, Inc., dated November 15, 1988.

Tract Four:

A certain tract or parcel of land located in Thompson Township, Alamance County, North Carolina, adjoining George Bason Road, Section 1, Quarry Hills Subdivision, and property owned by William Mann, and being more particularly described as follows:

BEGINNING at an existing iron pipe located in the northern edge of George Bason Road, a corner with Lot 4, Section 1 Quarry Hills Subdivision, George Bason Road 60' right of way and Lot 5, Section 2 Quarry Hills Subdivision (Plat Book 42 at page 51); thence running from said existing iron pipe along the boundary between Lots 4 and 5, N. 27 deg. 02' 59" W. 181.38 feet to an existing iron pipe; thence running along the southern edge of property owned by William Mann, S. 63 deg. 39' 10" W. 232.77 feet to an existing iron pipe; thence running S. 56 deg. 38' 20" W. 27.42 feet to a new iron pipe; thence running along the western edge of Lot 2, Section 2 Quarry Hills Subdivision, S. 27 deg. 02' 59" E. 187.92 feet to a new iron pipe located in the northern edge of the 60' right of way of George Bason Road; thence running in a curve to the right, N. 60 deg. 14' 06" E. a distance of 100.11 having a radius of 3699.36 feet and an arc of 100.12 feet to a new iron pipe; continuing in a curve to the right, N. 61 deg. 37' 48" E. a distance of 80.02 feet, having a radius of 3699.36 feet and an arc of 80.02 feet to a new iron pipe; thence continuing N. 62 deg. 52' 05" E. in a curve to the right with a distance of 80.00 feet, a radius of 3699.36, having an arc of 80 feet to the point of BEGINNING, and containing 1.102 acres, more or less, as shown on a plat recorded in the Office of the Register of Deeds of Alamance County entitled 'Final Plat, Section 2 Quarry Hills Subdivision', in Plat Book 42 at page 51.

Tract Five:

A certain tract or parcel of land lying and being in Thompson Township, Alamance County, North Carolina, adjoining George Bason Road, property owned by Will C. Mann, Ruth M. Bason and Quarry Hills Subdivision, Section 2 and more particularly described as follows:

BEGINNING at an existing iron pipe located in the northern edge of the 60' right of way of George Bason Road, a corner with Lot 8 Section 3, Quarry Hills Subdivision (Plat Book 44 at page 71) and Lot 7 Quarry Hills Subdivision Section 2 (Plat Book 41 at page 51); thence running in a curve to the left along the northern edge of George Bason Road 60' right of way the following courses and distances: S. 53 deg. 09' 42" W. a distance of 79.98 feet, having a radius of 1085.33 and an arc of 80 feet to an existing iron pipe, S. 48 deg. 56' 18" W. a distance of 79.98 feet, a radius of

1085.33 feet and an arc of 80 feet, S. 44 deg. 42' 54" W. a distance of 79.98 feet, a radius of 1085.33 feet and an arc of 80 feet, S. 42 deg. 04' 30" W. 20.02 feet having a radius of 1085.33 feet and an arc of 20.02 feet to an existing iron pipe; thence continuing along the northern edge of George Bason Road, S. 41 deg. 02' 21" W. 269.35 feet; thence in a curve to the left, S. 41 deg. 17' 46" W. having a distance of 30.63 feet, a radius of 1040.38 feet and an arc of 30.63 feet to an existing iron pipe; thence running in a curve to the left with property owned by Ruth M. Bason and Lot 14 Section 3, Quarry Hills Subdivision (Plat 44 at page 71), N. 84 deg. 12' 50" W. 121.67 feet, a radius of 180 feet and an arc of 124.11 feet to an existing iron pipe; thence running S. 76 deg. 15' 00" W. 8.18 feet; thence along the western edge of Lot 14, N. 02 deg. 48' 00" W. 184.50 feet; thence along the southern edge of property owned by Will C. Mann, a boundary with Lots 8 through 14 Quarry Hills Subdivision, Section 3, the following courses and distances: N. 87 deg. 12' 00" E. 30 feet; N. 42 deg. 41' 10" E. 336.99 feet; N. 56 deg. 38' 20" E. 221.68 feet to an existing iron pipe; thence running along boundary of Lots 7 and 8 of Quarry Hills Subdivision, S. 27 deg. 03' 54" E. 187.91 feet to point of BEGINNING, and containing 2.91 acres, more or less, as depicted on a final plat Section 3 Quarry Hills Subdivision, recorded in Plat Book 44 at page 71 in the Office of the Register of Deeds for Alamance County Registry and being Lots 8 through 14, inclusive.

Tract Six:

A certain tract or parcel of land lying and being in Thompson Township, Alamance County, North Carolina, adjoining Section 1 Stonehaven Subdivision, Quarry Development, Mary D. Kirkpatrick, and Carroll Eric Barnes, and being more particularly described as follows:

BEGINNING at a new iron pipe located in the southern edge of Graystone Drive, a corner with Lot 67, Section 2 Stonehaven Subdivision (Plat Book 50 at page 115), and property owned by Quarry Development Company (Plat Book 35 at page 103); thence running S. 79 deg. 29' 11" W. 85.26 feet to a point in the northern edge of Graystone Drive, a corner with Lot 65 Stonehaven Subdivision, Section 2; running thence along the western edge of Lots 64 and 65, Stonehaven Subdivision, Section 2, N. 46 deg. 54' 23" W. 420.60 feet; running thence along the southern edge of Stonehaven Subdivision, Section 1 and the northern edge of Stonehaven Subdivision, Section 2, N. 65 deg. 27' 25" E. 753.87 feet to a point in the western edge of Crescent Drive; thence running N. 31 deg. 38' 05" E. 89.15 feet to the eastern edge of Crescent Drive, a new iron pipe; thence running along the northern edge of Lot 54, Section 2 Stonehaven Subdivision, S. 85 deg. 40' 00" E. 184.18 feet to a control corner; thence running along the western edge of property owned by Mary D. Kirkpatrick, S. 04 deg. 20' 00" W. 630.26 feet to a control corner; thence running from said control corner along the northern edge of property owned by Carroll Eric Barnes, S. 75 deg. 10' 58" W. 316.27 feet to an existing iron pipe; thence running S. 13 deg. 44' 14" E. 25.67 feet to a corner of Lot 67, Section 2, Stonehaven Subdivision, Carroll Eric Barnes and Quarry Development Company; thence running S. 58 deg. 16' 14" W. 40.43 feet to a new iron pipe; thence running N. 52 deg. 53' 18" W. 180.00 feet to the point of BEGINNING

and BEING SECTION 2, STONEHAVEN SUBDIVISION, as recorded in Plat Book 50 at page 15 in the Office of the Register of Deeds for Alamance County.

Tract Seven:

A certain tract or parcel of land lying and being in Thompson Township, Alamance County, North Carolina, adjoining property owned by Fletcher C. Hunter, Michael W. Williams and Swepsonville Road (SR 2159), and being more particularly described as follows:

BEGINNING at an existing iron pipe located in the Swepsonville Road, a corner with property owned by Fletcher C. Hunter and property owned by Ricky D. Billings; running thence along the western edge of property owned by Fletcher C. Hunter and the eastern edge of property owned by Ricky D. Billings and being the boundary, S. 6 deg 00' 08" E. 1126.04 feet to a point; thence running S. 80 deg. 20' 22" W. 134.23 feet to a point; thence running along the western edge of property owned by Ricky D. Billings and the eastern edge of property owned by Michael W. Williams, N. 05 deg. 52' 15" W. 1122.27 feet to a point in Swepsonville Road (SR 2159); thence running from said point, N. 78 deg. 37' 59" E. 131.95 feet to the point of BEGINNING, and containing 3.402 acres, more or less, as described in a final plat for Ricky D. Billings as recorded in the Office of the Register Deeds for Alamance County in Plat book 38 at page 92.

Tract Eight:

A certain tract or parcel of land located in Thompson Township, Alamance County, North Carolina, adjoining George Bason Road (S.R. 2156), Swepsonville-Saxapahaw Road, the Haw River and property owned by Will C. Mann and being more particularly described as follows:

BEGINNING at an existing iron pipe located in the northern edge of George Bason Road (S.R. 2156) right of way, a corner with the southern corner of Lot 14, Quarry Hills Subdivision, Section 3 (Plat Book 44, page 71); running thence S. 19 deg. 31' 30" W. 50.80 feet to a new iron pipe; thence running N. 27 deg. 20' 16" E. 29.92 feet to a point in George Bason Road; running thence from said point, S. 55 deg. 23' 51" E. 49.57 feet to a point in Rivers Edge Drive; running thence S. 83 deg. 16' 45" W. 256.66 feet to an existing iron pipe; running thence S. 27 deg. 35' 16" W. 7.84 feet to an existing iron pipe; running thence along the northwestern edge of Lot 2 (Plat Book 9, page 23), S. 30 deg. 32' 55" W. 100.00 feet to an existing iron pipe; running thence S. 27 deg. 40' 53" W. 99.99 feet along the northwestern edge of Lot 3 (Plat Book 9, Page 23) to an existing iron pipe; thence from said pipe, S. 27 deg. 41' 50" W. 119.99 feet to an existing iron pipe; thence S. 27 deg. 43' 18" W. 47.05 feet to a new iron pipe, in the northeast corner of property owned by Don R. Quakenbush and wife, Bobbie L. Quakenbush; running thence along the northwestern edge of property owned by said Quakenbush, S. 52 deg. 49' 28" W. 307.09 feet to an existing iron pipe; continuing along the northwestern edge of property owned by said Quakenbush, S. 52 deg. 38' 28" W. 250.51 feet to a point in Swepsonville-Saxapahaw Road 60' right of way; thence with Swepsonville-Saxapahaw Road, the following courses and distances: N. 50 deg. 04' 01" W. in a curve to the left, a distance of 84.96 feet, radius of 603.10 feet and an arc of 85.03 feet; N. 66 deg. 43' 42" W. in a curve to the left, a

distance of 263.58 feet, a radius of 603.10 feet and an arc of 265.72 feet; N. 83 deg. 33' 46" W. in a curve to the left, a distance of 88.60 feet, a radius of 603.10 feet and an arc of 88.68 feet; N. 87 deg. 46' 32" W. 182.61 feet to a point in Swepsonville-Saxapahaw Road; running thence along the eastern edge of the Haw River, N. 20 deg. 13' 36" W. 378.16 feet to a point; continuing along the eastern edge of the Haw River, the following courses and distances: N. 09 deg. 48' 15" W. 232.04 feet; N. 13 deg. 42' 54" W. 240.29 feet; N. 00 deg. 18' 04" E. 224.05 feet; N. 19 deg. 44' 43" E. 111.00 feet; N. 35 deg. 06' 25" E. 187.88 feet; N. 40 deg. 07' 01" E. 224.53 feet to a point in the eastern edge of the Haw River; running thence S. 23 deg. 22' 50" E. 349.72 feet to a new iron pipe; running thence S. 16 deg. 11' 40" E. 99.99 feet to a new iron pipe; running thence S. 07 deg. 07' 20" E. 130.00 feet to a new iron pipe; running thence S. 09 deg. 12' 28" E. 271.71 feet to a new iron pipe; running thence N. 82 deg. 30' 17" E. 315.97 feet to a new iron pipe; running thence along the southern edge of property owned by Will C. Mann, the following courses and distances: N. 75 deg. 18' 09" E. 204.77 feet to a new iron pipe; running thence N. 86 deg. 27' 57" E. 543.65 feet to an existing iron pipe; running thence with the western edge of Lot 14, Quarry Hills Subdivision, Section 3, S. 02 deg. 46' 38" E. 184.54 feet to an existing iron pipe; running thence with a curve towards the southeast having a bearing of N. 70 deg. 52' 37" E. a chord distance of 91.47 feet, a radius of 260.00 feet and an arc distance of 91.95 feet to an existing iron pipe; running thence S. 60 deg. 47' 23" E. 20.71 feet to the POINT OF BEGINNING, containing 28.94 acres, more or less, as described on a survey by Simmons Engineering & Surveying, Inc., dated October 27, 1994, entitled 'Preliminary Plat, Section IV Quarry Hills Subdivision', plat of which is unrecorded. The Presbyterian Home of Hawfields property is excluded from the corporate limits.

"Section 2.2. **Annexation Moratorium.** Until August 26, 2017, the Town of Swepsonville may not annex under Article 4A of Chapter 160A of the General Statutes any property lying on the northeast side of North Carolina Highway 54.

"CHAPTER III.

"GOVERNING BODY.

"Section 3.1. **Structure of the Governing Body; Number of Members.** The governing body of the Town of Swepsonville is the Town Council, which has five members.

"Section 3.2. **Manner of Electing Board.** The qualified voters of the entire Town nominate and elect the members of the Council.

"Section 3.3. **Term of Office of Council Members.** The five members of the Swepsonville Sanitary District Board (including the three elected in 1997) are the initial Town Council members, to serve until their term on the Sanitary District Board would have expired. In 1999 and quadrennially thereafter, two council members shall be elected for four-year terms. In 2001 and quadrennially thereafter, three council members shall be elected for four-year terms.

"Section 3.4. **Selection of Mayor; Term of Office.** The Mayor shall be appointed by the Town Council from among its own membership for a four-

year term. The Mayor shall have the right to vote on all questions that come before the Council, but shall have no right to break a tie vote in which the Mayor participated.

"Section 3.5. **Filling of Vacancies.** Vacancies occurring for any reason in the Town Council shall be filled by the remaining members of the Council for the remainder of the unexpired term.

"CHAPTER IV.

"ELECTIONS.

"Section 4.1. **Conduct of Town Elections.** The Town Council shall be elected on a nonpartisan basis and the results determined by the plurality method in G.S. 163-292.

"CHAPTER V.

"ADMINISTRATION.

"Section 5.1. **Mayor-Council Plan.** The Town of Swepsonville operates under the Mayor-Council plan as provided by Part 3 of Article 7 of Chapter 160A of the General Statutes."

Section 3. (a) The incorporation referendum under G.S. 130A-81 shall be held on November 4, 1997. Procedures for the referendum are set out in G.S. 130A-81. The Alamance County Board of Elections may adopt a special schedule of notices and absentee voting.

(b) If approved by the voters in accordance with G.S. 130A-81, the incorporation of the Town of Swepsonville and simultaneous dissolution of the Swepsonville Sanitary District shall become effective on the second Monday of the month following when the results of the incorporation referendum under G.S. 130A-81 are certified. The Swepsonville Sanitary District shall take all actions necessary to effect this transfer of the assets and liabilities of the Sanitary District to the Town of Swepsonville.

Section 4. The organizational meeting of the Town Council of the Town of Swepsonville shall be held at 7:00 p.m. on the second Monday of the month following when the results of the incorporation referendum under G.S. 130A-81 are certified. The transitional provisions of G.S. 130A-81(5) a. through g. shall apply to the Town of Swepsonville and the Swepsonville Sanitary District.

Section 5. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law on the date it was ratified.

H.B. 496

CHAPTER 449

AN ACT TO GRANT AUTHORITY TO THE MUNICIPALITIES LOCATED IN LEE COUNTY TO ADDRESS ABANDONED STRUCTURES IN THE SAME MANNER AS MUNICIPALITIES IN COUNTIES WITH A POPULATION OF OVER ONE HUNDRED SIXTY-THREE THOUSAND.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 733 of the 1995 Session Laws, as amended by S.L. 1997-101 and Ratified House Bill 699, 1997 Regular Session, reads as rewritten:

"Sec. 2. This act applies to the Cities of Greenville, Lumberton, and Roanoke Rapids Rapids, to the municipalities in Lee County, and the Towns of Bethel, Farmville, and Newport only."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law on the date it was ratified.

H.B. 566

CHAPTER 450

AN ACT EXEMPTING THE WAKE COUNTY PUBLIC SCHOOL SYSTEM AND QUALIFIED NONPUBLIC SCHOOLS OF WAKE COUNTY FROM DEVELOPMENT CHARGES RELATED TO THE CONSTRUCTION, RENOVATION, AND REPAIR OF SCHOOL INFRASTRUCTURE FACILITIES IN WAKE COUNTY AND THE MUNICIPALITIES THEREIN, AND TO CHANGE SEVERAL OTHER LAWS AFFECTING WAKE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding any other provision of law, the Wake County Public School System and qualified nonpublic schools of Wake County shall be exempt from development charges assessed by Wake County or any municipality having territory within Wake County where the development charge is assessed against the construction, renovation, or repair of school infrastructure facilities.

Section 2. For the purposes of this act:

(a) "Development charge" means any:

- (1) Impact fee, facility fee, development fee, project fee, regulatory fee, or other similar fee assessed in connection with the construction, renovation, or repair of a school infrastructure facility where the fee is based on the student seating capacity of the facility.
- (2) Water and sewer acreage fee when the Wake County Public School System or a qualified nonpublic school has installed water and sewer improvements.
- (3) Transportation development fee when the Wake County Public School System or a qualified nonpublic school has installed transportation improvements.
- (4) Utility tap fee.
- (5) Plan review fee.
- (6) Building permit fee.
- (7) Fee to place a mobile classroom unit on property owned by the Wake County Public School System or qualified nonpublic school.

(b) "School infrastructure facility" means any building, structure, or other facility used or to be used by the Wake County Public School System

or qualified nonpublic school for instructional, administrative, or maintenance purposes. The term includes mobile classroom units.

(c) "Qualified nonpublic school" means a school having an enrollment of 20 or more students, and that has one or more of the characteristics set out in G.S. 115C-555.

Section 3. Chapter 279 of the 1989 Session Laws of North Carolina is repealed.

Section 4. Section 4 of Chapter 441 of the 1995 Session Laws reads as rewritten:

"Sec. 4. This act is effective upon ratification. ~~This act shall sunset July 1, 1997. This act expires September 1, 1997, but any summons issued before that date and served under the provisions of this act shall be valid.~~"

Section 5. G.S. 90-95.3(b) reads as rewritten:

"(b) When any person is convicted of an offense under this Article, the court may order him to make restitution in the sum of one hundred dollars (\$100.00) to the State of North Carolina or to a unit of local government for the expense of analyzing any controlled substance possessed by him or his agent as part of an investigation leading to his conviction. Any funds received under this subsection shall be deposited in the General Fund, Fund, or with a unit of local government if it provided the controlled substance analysis."

Section 6. Sections 1 and 2 of this act become effective when they become law and apply to Wake County Public School System or Wake County qualified nonpublic school construction, renovation, and repair projects for which a building permit is issued on or after that date. Any valid development charge that accrued prior to the effective date of this act on a project for which a building permit was issued prior to the effective date of this act shall remain valid and payable by the school system or school.

Section 7. Sections 3, 4, 5, and 7 of this act apply only to Wake County. Section 4 of this act is effective retroactively from July 1, 1997. Sections 3, 5, and 7 of this act become effective when they become law. Any process served pursuant to Chapter 441 of the 1995 Session Laws from July 1, 1997, until the date this act becomes law is validated by this act.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law on the date it was ratified.

H.B. 600

CHAPTER 451

AN ACT CLARIFYING THAT IN MODIFYING THE REQUIREMENTS FOR MAKING STREET ASSESSMENTS IN FOXFIRE VILLAGE UNDER CERTAIN CIRCUMSTANCES, UNDERGROUNDING OF UTILITIES, WHICH WAS PART OF THE PROJECT, IS ALSO SUBJECT TO ASSESSMENT.

The General Assembly of North Carolina enacts:

Section 1. (a) Section 8.1 of the Charter of Foxfire Village, being Chapter 237 of the 1977 Session Laws as added by Chapter 574 of the 1995 Session Laws, reads as rewritten:

"Sec. 8.1. Street Assessments.

(a) In addition to any authority which is now or hereafter may be granted by general law to the town for making street improvements, the Village Council may make street improvements and assess the cost thereof against abutting property owners in accordance with the provisions of this section.

(b) The Village Council may order street improvements and assess the cost thereof against the abutting property owners, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the General Statutes without the necessity of a petition meeting the requirements of that Article, upon the finding by the Village Council as a fact that:

- (1) The street improvement project does not exceed 30,000 lineal front footage;
- (2) The street improvement project involves no more than 200 lots;
- (3) The street improvement project consists of a series of streets all of which are contiguous to at least one other street in the project;
- (4) The street improvement project abuts at least one other paved street in the Village;
- (5) The street improvement project consists solely of a collection of streets for which petitions under Article 10 of Chapter 160A of the General Statutes were received within two years before a preliminary assessment resolution is adopted under the authority of this Article, in accordance with G.S. 160A-223, where:
 - a. The petitions taken as a whole were signed by at least forty percent (40%) of the owners of property to be assessed, who represent at least forty percent (40%) of all the lineal front footage of the lands abutting on the streets or portions thereof to be improved; but
 - b. Where for at least five streets in the project, the petitions were signed by at least two-thirds of the owners of property to be assessed, who represent at least two-thirds of all the lineal front footage of the lands abutting on the streets or portions thereof to be improved.

(c) For the purpose of this Article, the term 'street improvement' shall include grading, regrading, surfacing, resurfacing, widening, paving, repaving, the acquisition of right-of-way, underground electrical systems, and the construction or reconstruction of curbs, gutters, and street drainage facilities.

(d) In ordering street improvements without a petition and assessing the cost thereof under authority of this Article, the Village Council shall comply with the procedure provided by Article 10 of Chapter 160A of the General Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof. Any assessment under the authority of this act must be under a preliminary assessment resolution adopted under G.S. 160A-223 no later than December 31, 1998.

(e) The effect of the act of levying assessments under the authority of this Article shall for all purposes be the same as if the assessments were levied under authority of Article 10 of Chapter 160A of the General Statutes."

(b) In order to assess for underground electrical systems under the authority of this act, the Village Council may either commence a new assessment proceeding, or may amend the preliminary resolution for an existing assessment proceeding, and may act under petitions already received for the project.

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law on the date it was ratified.

H.B. 786

CHAPTER 452

AN ACT TO AMEND THE CHARTER OF THE CITY OF CONCORD TO ALLOW THE CITY MANAGER TO APPOINT THE FINANCE DIRECTOR AND THE CITY CLERK; TO PROVIDE FOR INITIATIVE AND REFERENDUM AUTHORITY FOR THE CONCORD CITY COUNCIL AND THE CABARRUS COUNTY BOARD OF COMMISSIONERS; AND AN ACT TO AMEND THE CHARTER OF THE CITY OF DURHAM AS IT RELATES TO VOLUNTARY ANNEXATIONS, PROTEST PETITIONS, THE APPROVAL OF PAYMENT OF FACILITIES FEES, AND THE RENAMING OF THE SUBDIVISION REVIEW BOARD, AND TO AMEND THE CHARTER OF THE CITY OF SANFORD RELATING TO THE PUBLICATION OF FRANCHISE ORDINANCES.

The General Assembly of North Carolina enacts:

Section 1. Section 4.2 of the Charter of the City of Concord, being Chapter 861 of the 1985 Session Laws, as amended, reads as rewritten:

"Sec. 4.2. City Manager. The ~~Board of Aldermen~~ City Council shall appoint a City Manager who shall be the chief administrator of city government, and who shall be responsible to the ~~Board Council~~ Board Council for the proper administration of the affairs of the city. The Manager shall be appointed on the basis of merit only, and he shall serve at the pleasure of the ~~Board Council~~ Board Council. Although he need not be a resident at the time of his appointment, the Manager shall become a resident of the city after his appointment. In exercising his duties as chief administrator, the Manager shall have the following powers and duties:

(a) He shall appoint, suspend or remove all city officers and employees not elected by the people, and whose appointment or removal is not otherwise provided for by law, except the ~~City Attorney, City Finance Director, Tax Collector, and City Clerk,~~ City Attorney and Tax Collector, in accordance with such general personnel rules, regulations, policies, or ordinances as the ~~Board Council~~ Board Council may adopt.

(b) He shall direct and supervise the administration of all departments, offices, and agencies of the city, subject to the general direction and control of the ~~Board, Council,~~ Board, Council, except as otherwise provided by law.

(c) He shall attend all meetings of the Board Council and recommend any measures that he deems expedient.

(d) He shall see that all laws of the State, the City Charter and the ordinances, resolutions and regulations of the Board Council are faithfully executed within the city.

(e) He shall prepare and submit the annual budget and capital program to the city.

(f) He shall annually submit to the Board Council and make available to the public a complete report on the finances and administrative activities of the city as of the end of the fiscal year.

(g) He shall make any other reports that the Board Council may require concerning the operations of the city departments, offices, and agencies subject to his direction and control.

(h) He shall perform any other duties that may be required and authorized by the Board Council."

Section 2. Sections 4.5 and 4.6 of the Charter of the City of Concord, being Chapter 861 of the 1985 Session Laws, as amended, are repealed.

Section 3. The Charter of the City of Concord, being Chapter 861 of the 1985 Session Laws, as amended, is amended by adding a new Article to read:

"ARTICLE VI.

"Sec. 6.1. Direct voting on issues by the people. The City Council may adopt an ordinance providing for a procedure of direct voting on issues by the people. Such an ordinance shall contain either or both of the following provisions:

- (1) When twenty-five percent (25%) of the qualified voters of the city apply to the Council by signed petition for the purpose of voting upon any question of public interest which that petition requests be submitted to a vote of the citizens of the city, the Council shall order a referendum on the question. The election shall be held not more than 120 nor fewer than 60 days after receipt of the petition. No special act shall be necessary to authorize the Council to order that referendum. The Council shall order as many referenda under the provisions of this section as it may be petitioned to call in the manner set out in this section. The Council shall call more than one election to be held for the purpose of voting upon the same question if a petition is filed, as herein provided, requesting the Council to call that election, notwithstanding the fact that a prior election may have been held for the purpose of ascertaining the wishes of the citizens of the city on the same question.
- (2) The Council may submit to a vote of the people of the city any resolution or ordinance passed by the Council or any other question of public interest, if the Council resolves to do so by a vote of three-fifths of its total members.

If a referendum is called under either subdivision (1) or (2) of this section, the county board of elections shall cause the ordinance or resolution to be voted on to be published in accordance with G.S. 163-33. If a referendum is called under either subdivision (1) or (2) of this section and a majority of

the qualified voters voting vote in favor of the measure proposed, then the vote of the people shall be binding upon the Council and the city, and the measure shall become effective throughout the city on the date the results are certified unless the measure contains another effective date.

"Sec. 6.2. The City Council may, by majority vote, repeal an ordinance for a direct vote on issues by the people it has adopted under Sec. 6.1."

Section 4. (a) The Cabarrus County Board of Commissioners may adopt an ordinance providing for a procedure of direct voting on issues by the people. Such an ordinance shall contain either or both of the following provisions:

- (1) When twenty-five percent (25%) of the qualified voters of the county apply to the Board by signed petition for the purpose of voting upon any question of public interest which that petition requests be submitted to a vote of the citizens of the county, the Board shall order a referendum on the question. The election shall be held not more than 120 nor fewer than 60 days after receipt of the petition. No special act shall be necessary to authorize the Board to order that referendum. The Board shall order as many referenda under the provisions of this section as it may be petitioned to call in the manner set out in this section. The Board shall call more than one election to be held for the purpose of voting upon the same question if a petition is filed, as herein provided, requesting the Board to call that election, notwithstanding the fact that a prior election may have been held for the purpose of ascertaining the wishes of the citizens of the county on the same question.
- (2) The Board may submit to a vote of the people of the county any resolution or ordinance passed by the Board or any other question of public interest, if the Board resolves to do so by a vote of three-fifths of its total members.

If a referendum is called under either subdivision (1) or (2) of this section, the county board of elections shall cause the ordinance or resolution to be voted on to be published in accordance with G.S. 163-33. If a referendum is called under either subdivision (1) or (2) of this subsection and a majority of the qualified voters voting vote in favor of the measure proposed, then the vote of the people shall be binding upon the Board of Commissioners and the county, and the measure shall become effective throughout the county on the date the results are certified unless the measure contains another effective date.

(b) The Cabarrus County Board of Commissioners may, by majority vote, repeal an ordinance for a direct vote on issues by the people it has adopted under subsection (a) of this section.

Section 5. The Charter of the City of Durham, being Chapter 671 of the 1975 Session Laws, as amended, is amended by adding a new section to read:

"Sec. 2.6. Petition Annexation Appeals. Any judicial action contesting the validity of an annexation by the City pursuant to Part 1 or 4 of Article 4A of Chapter 160A of the General Statutes shall be filed within 30 days after the adoption of the annexation ordinance."

Section 6. Section 115.6(b) of the Charter of the City of Durham, being Chapter 671 of the 1995 Session Laws, as added by Chapter 476 of the 1989 Session Laws and rewritten by Chapter 992 of the 1991 Session Laws, reads as rewritten:

"(b) The City Council may permit the payment of a facilities fee in a lump sum or in equal monthly or annual installments over a period of time not to exceed 10 years. The City Council may delegate authority to the city manager, or designee of the city manager, to authorize the payment of a facilities fee in installments when requested by the person who is responsible for paying the fee. If paid in installments, such installments shall bear interest at a rate fixed by the City Council of not more than nine percent (9%) per annum from the date when ~~payment by lump sum would have otherwise been due.~~ the City approves payment of the facilities fee in installments. The facilities fee, with accrued interest, may be paid in full at any time."

Section 7. Subsection (3) of Section 97 of the Charter of the City of Durham, being Chapter 671 of the 1975 Session Laws, reads as rewritten:

"(3) The City Council may provide for the appointment of a board to be known as a ~~Subdivision Review Board consisting of not less than four nor more than six members~~ Development Review Board consisting of four or more members who shall serve without pay as such members, each of whom shall be appointed by the Council for a term of years or for a term at the will of the Council, as may be determined by the Council; in the event the Council appoints such Board for a term of years, the term of the office of each member shall be three years. ~~Such Subdivision~~ The Development Review Board shall hear and decide appeals from and review any order, requirement, decision or determination made by any administrative official charged with the enforcement of any ordinance adopted pursuant to this section. It shall also hear and decide all matters referred to in or upon which it is required to pass under any such ordinance. The affirmative vote of a majority of members of the Board shall be necessary to reverse any order, requirement, decision or determination of any administrative official, or to decide in favor of the applicant any matter upon which it is required to pass under any such ordinance or to effect any variation in any of the provisions of such ordinance. Every decision of such Board shall, however, be subject to review by proceedings in the nature of certiorari. Such appeal may be taken by any person aggrieved or by an officer, department, board or bureau of the City. Such appeal shall be taken within such time as shall be prescribed by the ~~Subdivision~~ Development Review Board by general rule, by filing with the officer from whom the appeal is taken and with the ~~Subdivision~~ Development Review Board a notice of appeal, specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. An appeal from the administrative official to the

Subdivision Development Review Board stays all proceedings in furtherance of the action appealed from until the decision of the Subdivision Development Review Board is rendered, at which time the stay of proceedings shall cease, unless the proceedings shall be further stayed by a restraining order granted by a court of record or by the Subdivision Development Review Board. The Subdivision Development Review Board shall fix a reasonable time for the hearing of the appeal from the administrative official and shall give due notice thereof to the parties, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney. The Subdivision Development Review Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, action or determination appealed from, and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end shall have all of the powers of the officer from whom the appeal is taken. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of such ordinances, the Subdivision Development Review Board shall have the power, in passing upon appeals, to vary or modify any of the regulations or provisions of such ordinances relating to subdivisions, plats, maps and all other requirements of the ordinance, in harmony with the general purpose and intent of this section, so that the spirit of the ordinance may be observed, public safety, convenience and welfare secured and substantial justice done."

Section 8. The Charter of the City of Durham, being Chapter 671 of the 1975 Session Laws, is amended by adding the following new section:

"Section 94.4. Protest Petitions.

The provisions of G.S. 160A-386, as applied to the City of Durham, are modified to require that protest petitions be received by the city clerk in sufficient time to allow the City at least four normal work days, excluding Saturdays, Sundays, and legal holidays, before the date established for a public hearing on the proposed charge or amendment to determine the sufficiency and accuracy of the petition."

Section 9. The Charter of the City of Sanford, as enacted by Chapter 650 of the Session Laws of 1967, and as amended by Chapter 403 of the Session Laws of 1987, is further amended as follows:

"Sec. 3.10. Publication and Reading of Ordinance. ~~No ordinance granting any franchise for the use of the streets, sidewalks, highways or other public property of the City shall be passed until the full text thereof shall have been published for three weeks in a newspaper having general circulation in the City at the expense of the applicant applying for such franchise, before the second reading of such ordinance.~~ A copy of a proposed ordinance granting any franchise for the use of the streets, sidewalks, highways or other public property of the City shall be made available in the office of the City Clerk for public inspection. All such ordinances shall be read at two separate regular meetings of the Board of Aldermen and a 'yea' and 'nay' vote shall be taken and recorded on the first

and second readings. The rules shall not be suspended so as to pass any such ordinance in a shorter time."

Section 10. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law on the date it was ratified.

S.B. 552

CHAPTER 453

AN ACT TO PROHIBIT DISCHARGE OF FIREARMS FROM THE RIGHT-OF-WAY IN HUNTING BIG GAME.

The General Assembly of North Carolina enacts:

Section 1. It is unlawful to discharge a firearm from the right-of-way of a State-numbered road for the purpose of taking big game animals.

Section 2. Violation of this act is a Class 3 misdemeanor.

Section 3. This act is enforceable by law enforcement officers of the Wildlife Resources Commission, by sheriffs and deputy sheriffs, and by other peace officers with general subject matter jurisdiction.

Section 4. This act applies only to McDowell County, but shall not apply to those portions of the county along NC Highway 105 where there are game lands on both sides of the road.

Section 5. This act becomes effective October 1, 1997.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law on the date it was ratified.

S.B. 550

CHAPTER 454

AN ACT TO AMEND CHAPTER 89C OF THE GENERAL STATUTES TO PROVIDE THAT THE DESIGN OF LAND APPLICATION IRRIGATION SYSTEMS FOR ANIMAL WASTE MANAGEMENT SYSTEMS MAY BE PERFORMED BY IRRIGATION DESIGN TECHNICAL SPECIALISTS AND CONCERNING AGRICULTURAL BEST MANAGEMENT PRACTICES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 89C-25 reads as rewritten:

"§ 89C-25. *Limitations on application of Chapter.*

This Chapter shall not be construed to prevent or affect:

- (1) The practice of architecture, landscape architecture, or contracting or any other legally recognized profession or ~~trade; or~~ trade.
- (2) The practice of professional engineering or land surveying in this State or by any person not a resident of this State and having no established place of business in this State when this practice does not aggregate more than 90 days in any calendar year, whether performed in this State or elsewhere, or involve more than one specific project; provided, however, that such person is legally

- qualified by registration to practice the said profession in his own state or country, in which the requirements and qualifications for obtaining a certificate of registration are satisfactory to the Board; in which case the person shall apply for and the Board will issue a temporary ~~permit; or permit.~~
- (3) The practice of professional engineering or land surveying in this State not to aggregate more than 90 days by any person residing in this State, but whose residence has not been of sufficient duration for the Board to grant or deny registration; provided, however, such person shall have filed an application for registration as a professional engineer or registered land surveyor and shall have paid the fee provided for in G.S. 89C-14, and provided that such a person is legally qualified by registration to practice professional engineering or land surveying in his own state or country in which the requirements and qualifications for obtaining a certificate of registration are satisfactory to the Board, in which case the person shall apply for and the Board will issue a temporary ~~permit; or permit.~~
- (4) Engaging in engineering or land surveying as an employee or assistant under the responsible charge of a professional engineer or registered land surveyor or as an employee or assistant of a nonresident professional engineer or a nonresident registered land surveyor provided for in subdivisions (2) and (3) of this section, provided that said work as an employee may not include responsible charge of design or ~~supervision; or supervision.~~
- (5) The practice of professional engineering or land surveying by any person not a resident of, and having no established place of business in this State, as a consulting associate of a professional engineer or registered land surveyor registered under the provisions of this Chapter; provided, the nonresident is qualified for such professional service in his own state or ~~country; or country.~~
- (6) Practice by members of the armed forces or employees of the government of the United States while engaged in the practice of engineering or land surveying solely for said government on government-owned works and projects; or practice by those employees of the Natural Resources Conservation Service having federal engineering job approval authority that involves the planning, designing, or implementation of best management practices on agricultural lands.
- (7) The internal engineering or surveying activities of a person, firm or corporation engaged in manufacturing, processing, or producing a product, including the activities of public service corporations, public utility companies, authorities, State agencies, railroads, or membership cooperatives, or the installation and servicing of their product in the field; or research and development in connection with the manufacture of that product or their service; or of their research affiliates; or their employees in the course of their employment in connection with the

manufacture, installation, or servicing of their product or service in the field, or on-the- premises maintenance of machinery, equipment, or apparatus incidental to the manufacture or installation of the product or service of a firm by the employees of the firm upon property owned, leased or used by the firm; inspection, maintenance and service work done by employees of the State of North Carolina, any political subdivision thereof, or any municipality therein including construction, installation, servicing, maintenance by regular full-time employees of streets, street lighting, traffic-control signals, police and fire alarm systems, waterworks, steam, electric and sewage treatment and disposal plants; the services of superintendents, inspectors or foremen regularly employed by the State of North Carolina or any political subdivision thereof, or municipal corporation therein; provided, however, that the internal engineering or surveying activity is not a holding out to or an offer to the public of engineering or any service thereof as prohibited by this Chapter. Engineering work, not related to the foregoing exemptions, where the safety of the public is directly involved shall be under the responsible charge of a registered professional engineer, or in accordance with standards prepared or approved by a registered professional engineer.

- (8) The (i) preparation of fire sprinkler planning and design drawings by a fire sprinkler contractor licensed under Article 2 of Chapter 87 of the General Statutes, or (ii) the performance of internal engineering or survey work by a manufacturing or communications common carrier company, or by a research and development company, or by employees of such corporations provided that such work is in connection with, or incidental to products of, or nonengineering services rendered by such corporations or their affiliates.
- (9) The routine maintenance or servicing of machinery, equipment, facilities or structures, the work of mechanics in the performance of their established functions, or the inspection or supervision of construction by a foreman, superintendent, or agent of the architect or professional engineer, or services of an operational nature performed by an employee of a laboratory, a manufacturing plant, a public service corporation, or governmental operation.
- (10) The design of land application irrigation systems for an animal waste management plan, required by G.S. 143-215.10C, by a designer who exhibits, by at least three years of relevant experience, proficiency in soil science and basic hydraulics, and who is thereby listed as an Irrigation Design Technical Specialist by the North Carolina Soil and Water Conservation Commission."

Section 2. This act is retroactively effective March 1, 1997.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law upon approval of the Governor at 1:40 p.m. on the 29th day of August, 1997.

S.B. 343

CHAPTER 455

AN ACT RELATING TO THE DUTIES OF HOUSING AUTHORITY COMMISSIONERS UNDER THE PROVISIONS OF ARTICLE 1 OF CHAPTER 157 OF THE GENERAL STATUTES AND TO EXEMPT THE COUNTY OF DARE AND THE TOWN OF MANTEO FROM CERTAIN REQUIREMENTS FOR PUBLIC CONTRACTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 157-6 reads as rewritten:

"§ 157-6. ~~Duty of authority and commissioners.~~ authority.

The authority ~~and its commissioners~~ shall be under a statutory duty to comply or to cause compliance strictly with all provisions of this Article and the laws of the State and in addition thereto, with each and every term, provision and covenant in any contract of the authority on its part to be kept or performed."

Section 2. Dare County may contract for the design and construction of a Social Services building and a Health Services building without being subject to the requirements of G.S. 143-128, 143-129, 143-131, and 143-132. In contracting for the design and construction of a Social Services building and a Health Services building, if Dare County accepts bids under the single-prime contract system, it shall also seek bids for each building under the separate prime contract system. Notwithstanding any provision of law, Dare County may award each contract in its sole discretion.

Section 3. The Town of Manteo may contract for the design and construction of a Town Hall building without being subject to the requirements of G.S. 143-128, 143-129, 143-131, and 143-132. In contracting for a Town Hall building, if the Town of Manteo accepts bids under the single-prime contract system, it shall also seek bids under the separate prime contract system. Notwithstanding any provision of law, the Town of Manteo may award the contract in its sole discretion.

Section 4. This act is effective when it becomes law. Sections 2 and 3 of this act expire July 1, 1999.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law upon approval of the Governor at 1:41 p.m. on the 29th day of August, 1997.

H.B. 115

CHAPTER 456

AN ACT TO MAKE TECHNICAL CORRECTIONS AND CONFORMING CHANGES TO THE GENERAL STATUTES AND SESSION LAWS AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION, AND TO MAKE OTHER TECHNICAL CORRECTIONS AND CONFORMING CHANGES TO THE GENERAL STATUTES AND SESSION LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-650(b1) reads as rewritten:

"(b1) At the dispositional hearing or a subsequent hearing in the case of a juvenile who has been adjudicated delinquent, undisciplined, abused, neglected, or dependent, if the court finds that it is in the best interest of the juvenile for the parent to be directly involved in the juvenile's treatment, the court may order the parent to participate in medical, psychiatric, psychological, or other treatment of the juvenile juvenile. The cost of the treatment shall be paid pursuant to G.S. 7A-647(3)a."

Section 2. G.S. 14-277(a) reads as rewritten:

"(a) No person shall falsely represent to another that he is a sworn law-enforcement officer. As used in this section, a person represents that he is a sworn law-enforcement officer if he:

- (1) Verbally informs another that he is a sworn law-enforcement officer, whether or not the representation refers to a particular agency;
- (2) Displays any badge or identification signifying to a reasonable individual that the person is a sworn law-enforcement officer, whether or not the badge or other identification refers to a particular law-enforcement agency; ~~or~~
- (3) Unlawfully operates a vehicle on a public street, highway or public vehicular area with an operating red light as defined in G.S. ~~20-130.1(a), 20-130.1(a); or~~
- (4) Unlawfully operates a vehicle on a public street, highway, or public vehicular area with an operating blue light as defined in G.S. 20-130.1(c)."

Section 3. G.S. 15A-401(b) reads as rewritten:

"(b) Arrest by Officer Without a Warrant. --

- (1) Offense in Presence of Officer. -- An officer may arrest without a warrant any person who the officer has probable cause to believe has committed a criminal offense in the officer's presence.
- (2) Offense Out of Presence of Officer. -- An officer may arrest without a warrant any person who the officer has probable cause to believe:
 - a. Has committed a felony; or
 - b. Has committed a misdemeanor, and:
 1. Will not be apprehended unless immediately arrested, or
 2. May cause physical injury to himself or others, or damage to property unless immediately arrested; or
 - c. Has committed a misdemeanor under G.S. 14-72.1, 14-134.3, 20-138.1, or 20-138.2; or
 - d. Has committed a misdemeanor under G.S. 14-33(a), ~~G.S. 14-33(b)(1), or G.S. 14-33(b)(2)~~ 14-33(c)(1), or 14-33(c)(2) when the offense was committed by a person who is the spouse or former spouse of the alleged victim or by a person with whom the alleged victim is living or has lived as if married.
- (3) Repealed by Session Laws 1991, c. 150."

Section 4. G.S. 25-9-105(1)(h), as amended by Section 3 of S.L. 1997-181, reads as rewritten:

"(h) 'Goods' includes all things which are movable at the time the security interest attaches or which are fixtures (G.S. 25-9-313), but does not include money, documents, instruments, investment property, ~~commodity contracts~~, accounts, chattel paper, general intangibles, or minerals or the like (including oil and gas) before extraction. "Goods" also includes standing timber which is to be cut and removed under a conveyance or contract for sale, the unborn young of animals, and growing crops;"

Section 5. G.S. 25-9-312(7), as amended by Section 16 of S.L. 1997-181, reads as rewritten:

"(7) If future advances are made while a security interest is perfected by filing, the taking of possession, or under G.S. 25-9-115 or G.S. 25-9-116 on investment property, the security interest has the same priority for the purposes of subsection (5) or G.S. 25-9-115(5) with respect to the future advances as it does with respect to the first advance. If a commitment is made before or while the security interest is so perfected, the security interest has the same priority with respect to advances made pursuant thereto. In other cases a perfected security interest has priority from the date the advance is made."

Section 6. G.S. 25-9-303(1) reads as rewritten:

"(1) A security interest is perfected when it has attached and when all of the applicable steps required for perfection have been taken. Such steps are specified in G.S. 25-9-115, 25-9-302, 25-9-304, 25-9-305 and 25-9-306. If such steps are taken before the security interest attaches, it is perfected at the time it attaches."

Section 7. G.S. 28A-18-2(a) reads as rewritten:

"(a) When the death of a person is caused by a wrongful act, neglect or default of another, such as would, if the injured person had lived, have entitled him to an action for damages therefor, the person or corporation that would have been so liable, and his or their personal representatives or collectors, shall be liable to an action for damages, to be brought by the personal representative or collector of the decedent; and this notwithstanding the death, and although the wrongful act, neglect or default, causing the death, amounts in law to a felony. The personal representative or collector of the decedent who pursues an action under this section may pay from the assets of the estate the reasonable and necessary expenses, not including attorneys' fees, incurred in pursuing the action. At the termination of the action, any amount recovered shall be applied first to the reimbursement of the estate for the expenses incurred in pursuing the action, then to the payment of attorneys' fees, and shall then be distributed as provided in this section. The amount recovered in such action is not liable to be applied as assets, in the payment of debts or legacies, except as to burial expenses of the deceased, and reasonable hospital and medical expenses not exceeding four thousand five hundred dollars (\$4,500) incident to the injury resulting in death, except that the amount applied for hospital and medical expenses shall not exceed fifty percent (50%) of the amount of damages recovered after deducting attorneys' ~~fees~~, fees, but shall be disposed of as provided in the Intestate Succession Act. All claims filed for such services shall be approved by the clerk of the superior court and any party adversely affected by any decision of said clerk as to said claim may appeal to the superior

court in term time, but shall be disposed of as provided in the Intestate Succession Act. time."

Section 8. G.S. 41-19(a) reads as rewritten:

"(a) Except as extended by subsection (b) of this section, this Article applies to a nonvested property interest or a power of appointment that is created on or after October 1, 1995. For purposes of this section, a nonvested property interest or a power of appointment created by the exercise of a power of appointment is created when the power is irrevocably exercised or when a revocable exercise becomes irrevocable."

Section 9. G.S. 68-42 reads as rewritten:

"§ 68-42. *Stock running at large prohibited; certain ponies excepted.*

From and after July 1, 1958, it shall be unlawful for any person, firm or corporation to allow his or its horses, cattle, goats, sheep, or hogs to run free or at large along the outer banks of this State. This Article shall not apply to horses known as marsh ponies or banks ponies on Ocracoke Island, Hyde County. This Article shall not apply to horses known as marsh ponies or banks ponies on ~~Shackelford~~ Shackleford Banks between Beaufort Inlet and Barden's Inlet in Carteret County. Saving and excepting those animals known as 'banker ponies' on the island of Ocracoke owned by the Boy Scouts and not exceeding 35 in number."

Section 10. G.S. 68-43 reads as rewritten:

"§ 68-43. *Authority of Secretary of Environment, Health, and Natural Resources to remove or confine ponies on Ocracoke Island and ~~Shackelford~~ Shackleford Banks.*

Notwithstanding any other provisions of this Article, the Secretary of Environment, Health, and Natural Resources shall have authority to remove or cause to be removed from Ocracoke Island and ~~Shackelford~~ Shackleford Banks all ponies known as banks ponies or marsh ponies if and when he determines that such action is essential to prevent damage to the island. In the event such a determination is made, the Secretary, in lieu of removing all ponies, may require that they be restricted to a certain area or corralled so as to prevent damage to the island. In the event such action is taken, the Secretary is authorized to take such steps and act through his duly designated employees or such other persons as, in his opinion, he deems necessary and he may accept any assistance provided by or through the National Park Service."

Section 11. G.S. 81A-26(a)(4) reads as rewritten:

"(4) The identity of the commodity in the most descriptive terms commercially practicable, including any quality representation made in connection with the sale."

Section 12. G.S. 90-89(c)15. reads as rewritten:

"15. ~~Psilocyn.~~ Psilocin."

Section 14. G.S. 106-727(b) reads as rewritten:

"(b) The Commission shall consist of nine members, as follows:

- (1) The Commissioner of Agriculture;
- (2) Four members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121, one of whom shall be designated to

serve as chairman as provided in subsection (d) of this section; and

- (3) Four members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121."

Section 15. G.S. 106-802(4) reads as rewritten:

- "(4) 'Site evaluation' means an investigation to determine if a site meets all federal and State standards as evidenced by the Waste Management Facility Site Evaluation Report on file with the Soil and Water Conservation District office or a comparable report certified by a professional engineer or a comparable report certified by a technical specialist approved by the North Carolina Soil and Water Conservation Commission.

Department of Environment, Health and Natural Resources".

Section 16. G.S. 115C-81.2(e) reads as rewritten:

- "(e) The State Board of Education shall report to the Joint Legislative Education Oversight Committee by December 31, 1996, and annually thereafter on the comprehensive plan developed under Section 1 of Session Laws 1995 (Reg. Sess., 1996), c. 716, s. 1, subsection (a) of this section. The first report shall include revisions made to the standard course of study, teacher certification standards, and teacher education programs. Subsequent reports shall address the effectiveness, based on factors including improved student performance in reading, of the implementation of the plan. The State Board may make recommendations to the General Assembly in any of its reports."

Section 17. G.S. 115C-302(f) reads as rewritten:

- "(f) A teacher may use annual leave, personal leave, or leave without pay to care for a newborn child or for a child placed with the teacher for adoption or foster care. The leave may be for consecutive workdays during the first 12 months after the date of birth or placement of the child, unless the teacher and local board of education agree otherwise."

Section 18. G.S. 115D-2.1(b)(3) reads as rewritten:

- "(3) The Governor shall appoint to the State Board four members from the State at large and one member from each of the six Trustee Association Regions defined in G.S. 115D-63 G.S. 115D-62. The initial appointments by the Governor shall be made effective July 1, 1980, or as soon as feasible thereafter. In order to establish regularly overlapping terms, the initial appointments by the Governor shall be made so that three expire June 30, 1981, three expire June 30, 1983, and four expire June 30, 1985. Each subsequent regular appointment by the Governor shall be for a term of six years and until a successor is appointed and qualifies. Any vacancy occurring among his appointees before the expiration of term shall be filled by appointment of the Governor; the member so appointed shall meet the same residential qualification, if any, as the member whom he succeeds and shall serve for the remainder of the unexpired term of that member."

Section 19. G.S. 115D-2.1(d) reads as rewritten:

"(d) No member of the General Assembly, no officer or employee of the State, and no officer or employee of an institution under the jurisdiction of the State Board and no spouse of any of those persons, shall be eligible to serve on the State Board. Furthermore, no person who within the prior 5 five years has been an employee of the Department of Community Colleges shall be eligible to serve on the State Board."

Section 20. G.S. 131D-2(a1)(4) reads as rewritten:

"(4) Individuals whose health needs cannot be met in the specific adult care home as determined by the ~~residence~~, residence; and".

Section 21. G.S. 131D-20(6) reads as rewritten:

"(6) 'Group home for developmentally disabled adults' means ~~and an~~ adult care home which has two to nine developmentally disabled adult residents."

Section 22. G.S. 143B-153(3)b. reads as rewritten:

"b. For the inspection and licensing of adult care homes for aged or disabled persons as provided by G.S. 131D-2(b) and for personnel requirements of staff employed in ~~adult care homes~~ adult care homes;"

Section 23. G.S. 148-32.1(b) reads as rewritten:

"(b) In the event that the custodian of the local confinement facility certifies in writing to the clerk of the superior court in the county in which said local confinement facility is located that the local confinement facility is filled to capacity, or that the facility cannot reasonably accommodate any more prisoners due to segregation requirements for particular prisoners, or that the custodian anticipates, in light of local experiences, an influx of temporary prisoners at that time, or if the local confinement facility does not meet the minimum standards published pursuant to G.S. 153A-221, any judge of the district court in the district court district as defined in G.S. 7A-133 where the facility is located, or any superior court judge who has jurisdiction pursuant to G.S. 7A-47.1 or G.S. 7A-48 in a district or set of districts as defined in G.S. 7A-41.1 where the facility is located may order that the prisoner be transferred to any other qualified local confinement facility within that district or within another such district where space is available, including a satellite jail unit operated pursuant to G.S. 153A-230.3 if the prisoner is a non-violent misdemeanor, which local facility shall accept the transferred prisoner, if the prison population has exceeded a manageable level as provided for in G.S. 148-4.1(a). If no such local confinement facility is available, then any such judge may order the prisoner transferred to such camp or facility as the proper authorities of the Department of Correction shall designate, notwithstanding that the term of imprisonment of the prisoner is 90 days or less. In no event, however, shall a prisoner whose term of imprisonment is less than 30 days be assigned or ordered transferred to any such camp or facility."

Section 24. G.S. 153A-301(a) reads as rewritten:

"(a) The board of commissioners of any county may define any number of service districts in order to finance, provide, or maintain for the districts one or more of the following services, facilities and functions in addition to or to a greater extent than those financed, provided or maintained for the entire county:

- (1) Beach erosion control and flood and hurricane protection works.
- (2) Fire protection.
- (3) Recreation.
- (4) Sewage collection and disposal systems of all types, including septic tank systems or other on-site collection or disposal facilities or systems.
- (5) Solid waste collection and disposal systems.
- (6) Water supply and distribution systems.
- (7) Ambulance and rescue.
- (8) Watershed improvement projects, including but not limited to watershed improvement projects as defined in General Statutes Chapter 139; Chapter 139 of the General Statutes; drainage projects, including but not limited to the drainage projects provided for by General Statutes Chapter 156; Chapter 156 of the General Statutes; and water resources development projects, including but not limited to the federal water resources development projects provided for by General Statutes Chapter 143, Article 21, Article 21 of Chapter 143 of the General Statutes.
- (9) Cemeteries.
- (10) Law enforcement if all of the following apply:
 - a. The population of the county is over five hundred thousand 500,000 according to the most recent federal decennial census.
 - b. The county has an interlocal agreement with a city in the county under which the city provides law enforcement services in the entire unincorporated area of the county.
 - c. The county will pay to the city the following percentages of the city-county police department budget if there are no significant changes to the city's statutory annexation authority:
 1. 9.60% for fiscal years 1995-96 and 1996-97.
 2. 7.60% for fiscal years 1997-98 and 1998-99.
 3. 5.60% for fiscal years 1999-2000 and 2000-2001.
 4. 3.60% for fiscal years 2001-02 and 2002-03.
 5. 1.60% for fiscal years 2003-04 and 2004-05.

Provided, if the difference between the ratio of the population in the unincorporated area to the total population served by the city-county police department and the rate for the current year as stated above is greater than fifteen percent (15%), the the county's agreement to pay such percentages can be amended to reflect that difference."

Section 25. Chapter 261 of the 1995 Session Laws is repealed.

Section 26. Section 2 of Chapter 627 of the 1995 Session Laws reads as rewritten:

"Sec. 2. G.S. ~~113-133(e)~~ 113-133.1(e) is amended by deleting the words 'Currituck: Session Laws 1959, Chapter 545.'"

Section 27. The Revisor of Statutes is authorized to renumber or reletter those sections and any parts of sections of the General Statutes that have been published in the General Statutes of North Carolina prior to the

1997 Session of the 1997 General Assembly and have a number or letter designation that is not compatible with the General Assembly's computer program database to be implemented in 1997 or 1998. This authority is in addition to the authority contained in G.S. 164-10.

Section 28. Effective January 1, 1998, G.S. 1-339.25(a), as amended by Section 18 of S.L. 1997-83 and Section 1 of S.L. 1997-119, reads as rewritten:

"(a) An upset bid is an advanced, increased or raised bid in a public sale by auction whereby a person offers to purchase real property theretofore sold for an amount exceeding the reported sale price by a minimum of five percent (5%) thereof, but in any event with a minimum increase of seven hundred fifty dollars (\$750.00). ~~the the the~~ An upset bid shall be made by delivering to the clerk of superior court, with whom the report of the sale was filed, a deposit in cash or by certified check or cashier's check satisfactory to the clerk in an amount greater than or equal to five percent (5%) of the amount of the upset bid but in no event less than seven hundred fifty dollars (\$750.00). The deposit required by this section shall be filed with the clerk of the superior court, with whom the report of sale was filed, by the close of normal business hours on the tenth day after the filing of the report of sale, and if the tenth day shall fall upon a Sunday or legal holiday or upon a day in which the office of the clerk is not open for the regular dispatch of its business, the deposit may be made on the day following when ~~said the~~ office is open for the regular dispatch of its business. An upset bid need not be in writing, and the timely deposit with the clerk of the required amount, together with an indication to the clerk as to the sale to which it is applicable, is sufficient to constitute the upset bid, subject to the provisions of subsection (b) of this section."

Section 29. G.S. 20-4.01(27)d1. reads as rewritten:

"d1. Moped. -- Vehicles having A vehicle that has two or three wheels and operable pedals and equipped with wheels, no external shifting device, and a motor which that does not exceed 50 cubic centimeters piston displacement and cannot propel the vehicle at a speed greater than 20 miles per hour on a level surface."

Section 30. G.S. 20-28.2(a), as amended by Section 1.1 of S.L. 1997-379, reads as rewritten:

"(a) Meaning of 'Impaired Driving License Revocation'. -- The revocation of a person's driver's license is an impaired driving license revocation if the revocation is pursuant to:

- (1) G.S. 20-13.2, 20-16(a)(8b), 20-16.2, 20-16.5, 20-17(a)(2), 20-17(a)(12), or 20-17.2; or
- (2) G.S. 20-16(a)(7), 20-17(1), or 20-17(9), 20-17(a)(1), or 20-17(a)(9), if the offense involves impaired driving."

Section 31. G.S. 20-28.3(a), as enacted by Section 1.2 of S.L. 1997-379, reads as rewritten:

"(a) A motor vehicle that is driven by a person in violation of G.S. 20-138.1 or G.S. 20-138.5 is subject to seizure if at the time of the violation the drivers license of the person driving the motor vehicle was revoked as a result of a prior impaired ~~drivers driving~~ license revocation. ~~The revocation~~

~~of a person's drivers license is an impaired drivers license revocation for purposes of this section if the revocation is pursuant to:~~

- ~~(1) G.S. 20-13.2, 20-16(a)(8b), 20-16.2, 20-16.5, 20-17(a)(2), 20-17(a)(12), or 20-17.2; or~~
- ~~(2) G.S. 20-16(a)(7), 20-17(a)(1), or 20-17(a)(9) if the offense involved impaired driving, revocation as defined in G.S. 20-28.2(a)."~~

Section 32. Effective December 1, 1997, G.S. 20-7(a1), as amended by Section 8 of S.L. 1997-16, reads as rewritten:

"(a1) Motorcycles and Mopeds. -- To drive a motorcycle, a person ~~must~~ shall have:

- ~~(1) a motorcycle learner's permit, a~~ A full provisional license with a motorcycle learner's permit; and a motorcycle endorsement, or a
- ~~(2) A regular drivers license with a motorcycle learner's permit; or~~
- ~~(3) Either:~~
 - a. A full provisional license; or
 - b. A regular drivers license, and with a motorcycle endorsement.

Subsection (a2) of this section sets forth the requirements for a motorcycle learner's permit.

To obtain a motorcycle endorsement, a person ~~must~~ shall demonstrate competence to drive a motorcycle by:

- ~~(1) passing~~ Passing a road test and test;
- ~~(2) Passing a written or oral test concerning a motorcycle~~ motorcycles; and
- ~~(3) must pay~~ Paying the fee for a motorcycle endorsement.

Neither a drivers license nor a motorcycle endorsement is required to drive a moped."

Section 33. Effective December 1, 1997, G.S. 20-7(a2), as enacted by Section 9 of S.L. 1997-16, reads as rewritten:

"(a2) Motorcycle Learner's Permit. -- The following persons are eligible for a motorcycle learner's permit:

- (1) A person who is at least 16 years old but less than 18 years old and has ~~a limited provisional license or~~ a full provisional license issued by the Division.
- (2) A person who is at least 18 years old and has a license issued by the Division.

To obtain a motorcycle learner's permit, an applicant ~~must~~ shall pass a vision test, a road sign test, and a written test specified by the Division. A motorcycle learner's permit expires 18 months after it is issued. The holder of a motorcycle learner's permit may not drive a motorcycle with a passenger. ~~The holder of a motorcycle learner's permit who has a limited provisional license may drive the motorcycle only at a time when the license holder could drive a motor vehicle without supervision under G.S. 20-11.~~ The fee for a motorcycle learner's permit is the amount set in G.S. 20-7(l) for a learner's permit."

Section 34. (a) G.S. 20-28.6, as enacted in Section 1.5 of S.L. 1997-379, reads as rewritten:

"§ 20-28.6. Forfeiture of right of registration.

(a) A person convicted of violating G.S. 20-138.1 or G.S. 20-138.5 while the person's drivers license is revoked as a result of a prior impaired drivers license revocation as defined in G.S. 20-28.3 forfeits the right to register or have registered a motor vehicle in the person's name until the person's drivers license is restored. The trial judge at the sentencing hearing on the person's charge of violating G.S. 20-138.1 or G.S. 20-138.5 while the person's drivers license is revoked as a result of a prior impaired drivers license revocation as defined in G.S. 20-28.3 shall order the defendant's rights of registration forfeited for the period the defendant's drivers license is revoked. The defendant shall be ordered to surrender the registration on all motor vehicles registered in the defendant's name to the Division within 10 days of the date of the order. Information in the order pertaining to the registration of motor vehicles shall be transmitted electronically or otherwise by the clerk of superior court to the Division. The Division shall not thereafter register a motor vehicle in the defendant's name until the defendant's drivers license has been restored.

(b) A registered owner other than the operator of the vehicle that is seized pursuant to G.S. 20-28.3 who is not an innocent party pursuant to G.S. 20-28.2 forfeits the right to register or have registered in the person's name the motor vehicle seized, until the drivers license of the person whose driving violation resulted in the motor vehicle being seized is restored. The trial judge on the person's charge of violating G.S. 20-138.1 or G.S. 20-138.5 while the person's drivers license is revoked as a result of a prior impaired drivers license revocation as defined in G.S. 20-28.3 shall order the registered owner's rights of registration for the seized motor vehicle forfeited for the period the defendant's drivers license is revoked after an opportunity for a hearing and a determination that the requirements of subsections (a) through (c) of G.S. 20-28.2 exist. The registered owner shall be ordered to surrender the registration on the motor vehicle seized to the Division within 10 days of the date of the order. Information in the order pertaining to the registration of motor vehicles shall be transmitted electronically or otherwise by the clerk of superior court to the Division. The Division shall not thereafter register the motor vehicle seized in the registered owner's name until the defendant's drivers license has been restored."

(b) G.S. 20-139.1(b5), as enacted in Section 5.4 of S.L. 1997-379, reads as rewritten:

"(b5) Subsequent Tests Allowed. -- A person may be requested, pursuant to G.S. 20-16.2, to submit to a chemical analysis of the person's blood or other bodily fluid or substance in addition to or in lieu of a chemical analysis of the breath, in the discretion of the charging officer. If a subsequent chemical analysis is requested pursuant to this subsection, the person shall again be advised of the implied consent rights in accordance with G.S. 20-16.2(a). A person's willful refusal to submit to a chemical analysis of the blood or other bodily fluid or substance is a willful refusal under G.S. 20-16.2."

Section 35. G.S. 20-183.8C(b), as amended by Section 7 of S.L. 1997-29, reads as rewritten:

"(b) Type II. -- It is a Type II violation for an emissions self-inspector, an emissions inspection station, or an emissions inspection mechanic to do any of the following:

- (1) Use the identification code of another to gain access to an emissions analyzer.
- (2) Keep inspection stickers and other compliance documents in a manner that makes them easily accessible to individuals who are not inspection mechanics.
- (3) Put an emissions inspection sticker on a vehicle that is required to have one of the following emissions control devices but does not have it:
 - a. Catalytic converter.
 - b. PCV valve.
 - c. Thermostatic air control.
 - d. Oxygen sensor.
 - e. Unleaded gas restrictor.
 - f. Gasoline tank cap.
 - g. Air injection system.
 - h. Evaporative emissions system.
 - i. Exhaust gas recirculation (EGR) valve.
- (4) Put an emissions inspection sticker on a vehicle without performing a visual inspection of the vehicle's exhaust system and checking the exhaust system for leaks.
- (5) Impose no fee for an emissions inspection of a vehicle or the issuance of an emissions inspection sticker or impose a fee for one of these actions in an amount that differs from the amount set in ~~G.S. 20-187.3~~, G.S. 20-183.7."

Section 36. G.S. 20-376(1) reads as rewritten:

- "(1) Federal safety regulations. -- The federal motor carrier safety regulations contained in 49 U.S.C. Subchapter B, Parts 350 through 399, C.F.R. Parts 382 and 390 through 398."

Section 37. G.S. 20-381(1a) reads as rewritten:

- "(1a) To set safety standards for vehicles of motor carriers engaged in foreign, interstate, or intrastate commerce over the highways of this State and for the safe operation of these vehicles. The Division may ~~stop and inspect a vehicle~~ stop, enter upon, and perform inspections of motor carriers' vehicles in operation to determine if it is in compliance with these standards and may conduct any investigations and tests it finds necessary to promote the safety of equipment and the safe operation on the highway of these vehicles."

Section 38. G.S. 20-381(3) reads as rewritten:

- "(3) To relieve the highways of all undue burdens and safeguard traffic thereon by adopting and enforcing rules and orders designed and calculated to minimize the dangers attending transportation on the highways of all hazardous ~~materials~~, materials and other commodities."

Section 39. Effective June 27, 1997, G.S. 53-212.1, as amended by Section 2.1 of S.L. 1997-241, reads as rewritten:

"§ 53-212.1. *Bank agent for deposit institution affiliate.*

A bank may act as the agent of any depository institution affiliate in receiving deposits, renewing time deposits, closing loans, servicing loans, and receiving payments on loans and other obligations, without being deemed a branch of such affiliate, in accordance with Section 101(d) of the Reigle-Neal Interstate Banking and Branching Efficiency Act of 1994. An affiliate for the purposes of this section shall include (i) an affiliate as defined in Section 2(k) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. § 1841(k)), and (ii) an affiliate as defined in Section 23A(b)(1) of the Federal Reserve Act, as amended (~~12 U.S.C. § 37c(b)(1)~~) (~~but (12 U.S.C. § 371c(b)(1))~~), but without regard to whether the bank or the affiliate is a member of the Federal Reserve System). ~~System.~~"

Section 40. (a) The catch line for G.S. 58-51-61, as enacted in Section 1 of S.L. 1997-312, reads as rewritten:

~~"§ 58-51-61. § 58-51-62. Coverage for reconstructive breast surgery resulting from mastectomy."~~

(b) G.S. 58-50-155(a2), as enacted in Section 4 of S.L. 1997-312, reads as rewritten:

"(a2) Notwithstanding G.S. 58-50-123(c), the standard health plan developed and approved under G.S. 58-50-125 shall provide coverage for reconstructive breast surgery resulting from a mastectomy at least equal to the coverage required by ~~G.S. 58-51-61~~ G.S. 58-51-62."

(c) Subsection (a) of this section is effective retroactively to July 10, 1997. Subsection (b) of this section becomes effective January 1, 1998.

Section 41. If Senate Bill 843 of the 1997 General Assembly becomes law, G.S. 58-31-45 reads as rewritten:

"§ 58-31-45. *Report required of Commissioner.*

The Commissioner must submit to the Governor a full report of his official action under this Article, with such recommendations as commend themselves to him, ~~and it shall be embodied in or attached to his biennial report to the General Assembly, him.~~

Section 42. G.S. 58-68-45(b)(3), as enacted by S.L. 97-259, reads as rewritten:

"(3) Violation of participation or contribution rules. -- The policyholder has failed to comply with a material plan provision relating to employer contribution or group participation rules, as permitted under ~~G.S. 58-68-40(e)~~ G.S. 58-68-40(d) in the case of the small group market or pursuant to this Chapter in the case of the large group market."

Section 43. (a) G.S. 105-305(b), (d), and (e) are repealed.

(b) This section becomes effective July 1, 1997.

Section 43.1. (a) If Senate Bill 929, 1997 Session becomes law, then G.S. 110-91(1) as rewritten by Section 8 of that act reads as rewritten:

"(1) Medical Care and Sanitation. -- The Commission for Health Services shall adopt rules which establish minimum sanitation standards for child care centers and their personnel. The sanitation rules adopted by the Commission for Health Services shall cover such matters as the cleanliness of floors, walls, ceilings, storage spaces, utensils, and other facilities; adequacy of

ventilation; sanitation of water supply, lavatory facilities, toilet facilities, sewage disposal, food protection facilities, bactericidal treatment of eating and drinking utensils, and solid-waste storage and disposal; methods of food preparation and serving; infectious disease control; sleeping facilities; and other items and facilities as are necessary in the interest of the public health. The Commission for Health Services shall allow child care facilities centers to use domestic kitchen equipment, provided appropriate temperature levels for heating, cooling, and storing are maintained. Child care centers that fry foods shall use commercial hoods. These rules shall be developed in consultation with the Department.

The Commission shall adopt rules for child care facilities to establish minimum requirements for child and staff health assessments and medical care procedures. These rules shall be developed in consultation with the Department of Environment, Health, and Natural Resources. Each child shall have a health assessment before being admitted or within 30 days following admission to a child care facility. The assessment shall be done by: (i) a licensed physician, (ii) the physician's authorized agent who is currently approved by the North Carolina Medical Board, or comparable certifying board in any state contiguous to North Carolina, (iii) a certified nurse practitioner, or (iv) a public health nurse meeting the Department of Environment, Health, and Natural Resources' Standards for Early Periodic Screening, Diagnosis, and Treatment Program. However, no health assessment shall be required of any staff or child who is and has been in normal health when the staff, or the child's parent, guardian, or full-time custodian objects in writing to a health assessment on religious grounds which conform to the teachings and practice of any recognized church or religious denomination.

Organizations that provide prepared meals to child care centers only are considered child care centers for purposes of compliance with appropriate sanitation standards."

(b) This section becomes effective at the same time as Section 8 of Senate Bill 929, 1997 Session becomes effective.

Section 44. G.S. 113-291.3(b)(8), as enacted by Section 15 of S.L. 1997-142, reads as rewritten:

"(8) The ~~sale of the~~ edible parts of deer raised domestically in another state may be transported into this State and resold as a meat product for human consumption when the edible parts have passed inspection in the other state by that state's inspection agency or the United States Department of Agriculture."

Section 45. G.S. 120-34(a) reads as rewritten:

"(a) The Legislative Services Commission shall publish all laws and joint resolutions passed at each session of the General Assembly. The laws and joint resolutions shall be kept separate and indexed separately. Each volume shall contain a certificate from the Secretary of State stating that the volume was printed under the direction of the Legislative Services Commission from

ratified acts and resolutions on file in the Office of the Secretary of State. The Commission may publish the Session Laws and House and Senate Journals of extra and special sessions of the General Assembly in the same volume or volumes as those of regular sessions of the General Assembly. In printing, the signatures of the presiding officers and the Governor shall be omitted.

The enrolling clerk or the Legislative Services Office shall assign to each bill that becomes law a number in the order the bill became law, and the laws shall be printed in the Session Laws in that order. The number shall be preceded by the letters 'S.L.' phrase 'Session Law' or the letters 'S.L.' followed by the calendar year it was ordered enrolled, followed by a hyphen and the sequential law number. Laws of Extra Sessions shall so indicate. In the case of any bill required to be presented to the Governor, and which became law, the Session Laws shall carry, below the date of ratification, editorial notes as to what time and what date the bill became law. In any case where the Governor has returned a bill to the General Assembly with objections, those objections shall be printed verbatim in the Session Laws, regardless of whether or not the bill became law notwithstanding the objections."

Section 46. (a) G.S. 120-70.80 reads as rewritten:

"§ 120-70.80. *Creation and membership of Joint Legislative Education Oversight Committee.*

The Joint Legislative Education Oversight Committee is established. The Committee consists of 16 members as follows:

- (1) Eight members of the Senate appointed by the President Pro Tempore of the Senate, at least two of whom are members of the minority party; and
- (2) Eight members of the House of Representatives appointed by the Speaker of the House of Representatives, at least three of whom are members of the minority party.

Terms on the Committee are for two years and begin on the convening of the General Assembly in each odd-numbered year, except the terms of the initial members, which begin on appointment and end on the day of the convening of the 1991 General Assembly. Members may complete a term of service on the Committee even if they do not seek reelection or are not reelected to the General Assembly, but resignation or removal from service in the General Assembly constitutes resignation or removal from service on the Committee.

A member continues to serve until his successor is appointed. A vacancy shall be filled within 30 days by the officer who made the original appointment."

(b) G.S. 120-70.82(a) reads as rewritten:

"(a) The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair of the Joint Legislative Education Oversight Committee. The Committee shall meet at least once a quarter and may meet at other times upon the joint call of the cochairs."

Section 47. G.S. 122C-261(d) reads as rewritten:

"(d) If the affiant is a physician or eligible psychologist, the affiant may execute the affidavit before any official authorized to administer oaths. This affiant is not required to appear before the clerk or magistrate for this purpose. This affiant's examination shall comply with the requirements of the initial examination as provided in G.S. 122C-263(c). If the physician or eligible psychologist recommends outpatient commitment and the clerk or magistrate finds probable cause to believe that the respondent meets the criteria for outpatient commitment, the clerk or magistrate shall issue an order that a hearing before a district court judge be held to determine whether the respondent will be involuntarily committed. ~~If a physician or eligible psychologist recommends outpatient commitment, the clerk or magistrate~~ The physician or eligible psychologist shall provide the respondent with written notice of any scheduled appointment and the name, address, and telephone number of the proposed outpatient treatment physician or center. If the physician or eligible psychologist recommends inpatient commitment and the clerk or magistrate finds probable cause to believe that the respondent meets the criteria for inpatient commitment, the clerk or magistrate shall issue an order for transportation to or custody at a 24-hour facility described in G.S. 122C-252. However, if the clerk or magistrate finds probable cause to believe that the respondent, in addition to being mentally ill, is also mentally retarded, the clerk or magistrate shall contact the area authority before issuing the order and the area authority shall designate the facility to which the respondent is to be transported. If a physician or eligible psychologist executes an affidavit for inpatient commitment of a respondent, a second physician shall be required to perform the examination required by G.S. 122C-266."

Section 48. G.S. 130A-412.1(g), as enacted by Section 2 of S.L. 1997-192, reads as rewritten:

"(g) Hospitals and hospital personnel shall not be subject to civil or criminal liability nor to discipline for unprofessional conduct for actions taken in good faith to comply with this section. This subsection shall not provide immunity from a civil liability arising from gross negligence."

Section 49. (a) G.S. 131E-146(1) reads as rewritten:

"(1) 'Ambulatory surgical facility' means a facility designed for the provision of ~~an ambulatory surgical program, a specialty ambulatory surgical program or a multispecialty ambulatory surgical program.~~ An ambulatory surgical facility serves patients who require local, regional or general anesthesia and a period of post-operative observation. An ambulatory surgical facility may only admit patients for a period of less than 24 hours and must provide at least ~~one~~ two designated operating ~~room~~ rooms and at least one designated recovery room, have available the necessary equipment and trained personnel to handle emergencies, provide adequate quality assurance and assessment by an evaluation and review committee, and maintain adequate medical records for each patient. An ambulatory surgical facility may be operated as a part of a physician or dentist's office, provided the facility is licensed under G.S. Chapter 131E, Article 6, Part D, but the performance of incidental, limited ambulatory surgical procedures

which do not constitute an ambulatory surgical program as defined in subdivision (1a) and which are performed in a physician or dentist's office does not make that office an ambulatory surgical facility."

(b) This section conforms the definition of the term "ambulatory surgical facility" in the Ambulatory Surgical Facility Licensure Act to the definition of the same term in G.S. 131E-176, to reflect the amendment made to that statute by Section 2 of Chapter 7 of the 1993 Session Laws. However, ambulatory surgical facilities with only one operating room developed prior to the effective date of Chapter 7 of the 1993 Session Laws may still be licensed as if this section had not been enacted.

Section 50. Effective October 1, 1997, G.S. 143-215.84(e), as enacted by Section 4 of S.L. 1997-394, reads as rewritten:

"(e) (f) In order to reduce or eliminate the danger to public health or the environment posed by a discharge or release of oil or a hazardous substance, an owner, operator, or other responsible party may impose restrictions on the current or future use of the real property comprising any part of the site if the restrictions meet the requirements of this subsection. The restrictions must be agreed to by the owner of the real property, included in a remedial action plan for the site that has been approved by the Secretary, and implemented as a part of the remedial action program for the site. The Secretary may approve restrictions included in a remedial action plan in accordance with standards determined: (i) pursuant to rules for remediation of soil or groundwater contamination adopted by the Commission; (ii) with respect to the cleanup of a discharge or release from a petroleum underground storage tank, pursuant to rules adopted by the Commission pursuant to G.S. 143-215.94V; or (iii) as provided in G.S. 130A-310.3(d). Restrictions may apply to activities on, over, or under the land, including, but not limited to, use of groundwater, building, filling, grading, excavating, and mining. Any approved restriction shall be enforced by any owner, operator, or other party responsible for the oil or hazardous substance discharge site. Any land-use restriction may also be enforced by the Department through the remedies provided in this Article, Part 2 of Article 1 of Chapter 130A of the General Statutes, or by means of a civil action. The Department may enforce any land-use restriction without first having exhausted any available administrative remedies. A land-use restriction may also be enforced by any unit of local government having jurisdiction over any part of the site. A land-use restriction shall not be declared unenforceable due to lack of privity of estate or contract, due to lack of benefit to particular land, or due to lack of any property interest in particular land. Any person who owns or leases a property subject to a land-use restriction under this Part shall abide by the land-use restriction."

Section 51. Section 8 of Chapter 1436 of the 1957 Session Laws, as rewritten by Section 6 of Chapter 622 of the 1981 Session Laws and by Section 1 of S.L. 1997-163, reads as rewritten:

"Sec. 8. To obtain a license for either a stationary bush blind or a floating bush blind, the applicant shall apply in writing to the clerk to the Game Commission enclosing:

- (1) Twenty-five dollars (\$25.00) if the applicant is a resident of North Carolina; or
- (2) Two hundred fifty dollars (\$250.00) if the applicant is not a resident of North Carolina.

In addition to ~~the~~ this nonrefundable application fee, each application shall be accompanied by a nonrefundable processing fee of ten dollars (\$10.00). Applicants shall submit proof of North Carolina residency along with each application.

Applicants who are not residents of North Carolina but who were the holders of licensed blinds for the 1996-97 waterfowl season shall be charged as North Carolina residents for all subsequent renewals of that application. However, this exemption terminates if the blind license is not renewed during any subsequent annual renewal period and is not transferable to any different blind location.

Float blinds when licensed shall bear the license number or tag, and the same shall be displayed in a prominent or conspicuous place upon the blind."

Section 52. Section 1 of S.L. 1997-11 reads as rewritten:

"Section 1. That part of Section 1 of Chapter 6 7 of the Session Laws of the 1991 Extra Session which rewrote G.S. 163-201(a) is repealed."

Section 53. Section 1 of S.L. 1997-97 reads as rewritten:

"Section 1. ~~Subsection (f) of Chapter 33 of the 1993 Session Laws~~ G.S. 113-291.9(g) is repealed."

Section 54. The prefatory language of Section 1 of S.L. 1997-172 reads as rewritten:

"Section 1. The title of Article 5 of Chapter 30 130A of the General Statutes reads as rewritten:"

Section 55. Section 7(a) of S.L. 1997-221 is amended by adding quotation marks at the end.

Section 55.1. Section 3 of S.L. 1997-323 reads as rewritten:

"Section 3. Agreements under Section 1 of this act apply only to the following described properties:

TRACT I:

All that certain tract or parcel of land lying and being situated in Chocowinity Township, Beaufort County, North Carolina, and being more particularly described as follows:

Beginning at a point in the southern right-of-way line of NCSR 1166 (Whichards Beach Road); said point being located the following courses and distances from a concrete monument located at the southeasterly corner of the subdivision known as Harbor Estates, as shown on a plat thereof recorded in plat Cabinet A, Slide 113A in the office of the Register of Deeds of Beaufort County, North Carolina (said concrete monument also being the southwesterly corner of Tract II described below): South 35° 52' 54" East 62.93 feet; South 36° 20' 33" West 30.61 feet; and South 64° 01' 09" East 16.66 feet to a point. THENCE FROM SAID POINT OF BEGINNING BEING SO LOCATED, along and with the southern right-of-way line of

Whichards Beach Road South 64° 01' 03" East 132.39 feet to a point; thence south 64° 00' 52" East 49.07 feet to a point, thence South 64° 01' 18" East 50.66 feet to a point; thence South 64° 01' 12" East 220.27 feet to a point; thence South 64° 01' 09" East 45.61 feet to a point; thence continuing along and with the southern right-of-way line of NCSR 1166 with a curve to the right in a southeastwardly direction which has a chord bearing and distance of South 57° 55' 13" East 341.99 feet to a point; thence South 51° 52' 17" East 22.40 feet to a point; thence continuing South 51° 52' 17" East 300.00 feet to a point in the southern right-of-way line of NCSR 1166 (all previous calls being along and with the southern right-of-way line of NCSR 1166); thence leaving NCSR 1166 South 38° 00' 08" West 140.26 feet to a point; thence South 51° 52' 37" East 31.00 feet to a point; thence South 51° 52' 19" East 131.00 feet to a point; thence South 38° 00' 08" West 50.00 feet to a point; thence North 51° 59' 55" West 21.00 feet to a point; thence South 37° 50' 26" West 137.56 feet to a point; thence South 52° 57' 27" East 107.66 feet to a point; thence South 35° 48' 31" West, 49.16 feet to a point; thence South 37° 39' 39" West 149.73 feet to a point; thence continuing South 37° 39' 39" West 18.38 feet to a point in a ditch; thence along and with said ditch the following courses: North 56° 10' 32" West 114.97 feet to a point; North 57° 56' 27" West 120.08 feet to a point; thence North 59° 09' 12" West 105.20 feet to a point; thence North 57° 02' 11" West 105.33 feet to a point; thence North 64° 27' 40" West 506.54 feet to a point; thence North 56° 33' 24" West 99.24 feet to a point; thence North 48° 59' 54" West 220.23 feet to a point; thence North 47° 02' 51" West 145.55 feet to a point; thence North 36° 19' 37" East 158.65 feet to a point; thence North 36° 20' 38" East 20.00 feet to a point; thence North 36° 19' 33" East 51.10 feet to a point; thence North 36° 20' 24" East 24.66 feet to a point; thence North 36° 20' 20" East 100.34 feet to a point; thence North 36° 20' 41" East 166.95 feet to a point; thence with a curve to the right (which curve has a radius of 20 feet, a chord bearing and distance of North 76° 08' 47" East 25.60 feet, and an arc distance of 27.78 feet) to the point of beginning.

TRACT II:

All that certain tract or parcel of land lying and being situate in Chocowinity Township, Beaufort County, North Carolina, and being more particularly described as follows:

Beginning at an existing concrete monument in the northern right-of-way line of NCSR 1166 (Whichard's Beach Road), said concrete monument being also the southeasterly corner of the subdivision known as Harbor Estates, as shown on a plat thereof recorded in Plat Cabinet A, Slide 113A in the office of the Register of Deeds of Beaufort County, North Carolina. THENCE FROM SAID POINT OF BEGINNING BEING SO LOCATED, North 30° 36' 00" East 375.64 feet to a point; thence North 30° 36' 00" East 17.0 feet to a point in a canal; thence continuing with the canal North 48° 42' 00" East 23.43 feet to a point; thence continuing with the canal North 30° 26' 00" East 476.44 feet to a point; thence North 31° 42' 00" East 427.85 feet to a point in the mean high water line of the Pamlico

River; thence along and with the mean high water line of the Pamlico River the following courses and distances: North $71^{\circ} 11' 00''$ East 88.88 feet to a point; thence North $78^{\circ} 57' 00''$ East 77.78 feet to a point; thence North $51^{\circ} 09' 00''$ East 53.88 feet to a point; thence South $21^{\circ} 39' 00''$ East 42.48 feet to a point; thence South $55^{\circ} 23' 00''$ East 82.19 feet to a point; thence North $65^{\circ} 06' 00''$ East 38.64 feet to a point; thence South $45^{\circ} 07' 00''$ East 146.64 feet to a point; thence South $59^{\circ} 32' 00''$ East 106.73 feet to a point; thence South $65^{\circ} 56' 46''$ East 91.98 feet to a point; thence South $87^{\circ} 44' 21''$ East 82.14 feet to a point; thence South $83^{\circ} 21' 00''$ East 96.80 feet to a point; thence North $78^{\circ} 56' 00''$ East 251.10 feet to a point; thence South $63^{\circ} 13' 00''$ East 91.37 feet to a point; thence South $63^{\circ} 13' 00''$ East 182.56 feet to a point; thence South $63^{\circ} 13' 00''$ East 107.00 feet to a point; thence leaving said river South $38^{\circ} 18' 41''$ West 21.94 feet to a concrete monument; thence continuing South $38^{\circ} 18' 41''$ West 701.64 feet to a concrete monument; thence continuing South $38^{\circ} 18' 41''$ West 64.72 feet to a concrete monument; thence continuing South $38^{\circ} 18' 41''$ West 108.03 feet to a concrete monument; thence South $38^{\circ} 18' 41''$ West 106.26 feet to a concrete monument; thence continuing South $38^{\circ} 18' 41''$ West 104.29 feet to a concrete monument; thence continuing South $38^{\circ} 18' 41''$ West 102.43 feet to a concrete monument; thence South $38^{\circ} 18' 41''$ West 127.21 feet to a concrete monument; thence South $38^{\circ} 18' 41''$ West 35.74 feet to a concrete monument; thence South $38^{\circ} 18' 41''$ West 63.98 feet to a concrete monument; thence continuing South $38^{\circ} 18' 41''$ West 99.54 feet to a concrete monument; thence continuing South $38^{\circ} 18' 41''$ West 99.16 feet to a concrete monument; thence continuing South $38^{\circ} 18' 41''$ West 106.40 feet to a concrete monument in the northern right-of-way line of NCSR 1166; thence continuing along and with the northern right-of-way line of NCSR 1166 along a curve to the left in a northwestwardly direction to a point (which curve has a chord bearing and distance of North $51^{\circ} 41' 19''$ West 100.00 feet); thence continuing along and with the northern right-of-way line of NCSR 1166 along a curve to the left in a northwestwardly direction to a point (which curve has a chord bearing and distance of North $55^{\circ} 31' 51''$ West 396.18 feet); thence continuing along and with the northern right-of-way line of NCSR 1166 North $62^{\circ} 36' 41''$ West 58.52 feet to a point; thence continuing along and with the northern right-of-way line of NCSR 1166 North $63^{\circ} 28' 00''$ West 100.00 feet to a point; thence continuing along and with the northern right-of-way line of NCSR 1166 North $64^{\circ} 04' 00''$ West 470.44 feet to the point or place of beginning.

Together with all property lying between the northern property line of the above-described property, the eastern and western property line of the above-described property extended in a northeasterly direction to the mean high water line of the Pamlico River and the mean high water line of the southern shore of the Pamlico River.

TRACT III:

All that certain tract or parcel of land lying and being situate in Chocowinity Township, Beaufort County, North Carolina, and being more particularly described as follows:

BEGINNING at an existing concrete monument located in the northern right-of-way line of NCSR 1166 (Whichard's Beach Road - 60 ft. right-of-way), said point being located South 59° 50' 02" East 1121.46 feet from the existing concrete monument at the southeast corner of Harbour Estates on the northern right-of-way line of NCSR 1166. Said point of beginning also being the southeast corner of the property of Fountain Powerboats, Inc., described in Deed Book 844, Page 519. THENCE FROM SAID POINT OF BEGINNING SO LOCATED, North 38° 18' 41" East 205.53 feet to an existing concrete monument; thence continuing North 38° 18' 41" East 99.54 feet to an existing concrete monument; thence continuing North 38° 18' 41" East 99.57 feet to an existing concrete monument; thence continuing North 38° 18' 41" East 127.20 feet to an existing concrete monument; thence North 38° 18' 41" East 102.41 feet to an existing concrete monument; thence continuing North 38° 18' 41" East 363.45 feet to an existing concrete monument; thence continuing North 38° 18' 41" East 723.64 feet more or less to the mean highwater line on the southern shoreline of the Pamlico River; thence along and with the mean highwater line on the southern shoreline of the Pamlico River South 03° 46' 08" East 35.33 feet to a point; thence South 31° 43' 09" West 1,725.69 feet more or less to the northern right-of-way line of NCSR 1166; thence continuing along and with the northern right-of-way line of NCSR 1166 North 51° 54' 27" West 221.81 feet to the point or place of beginning, said property containing approximately 4.84 acres. The above description is from a survey by W. C. Owen of Quible and Associates, P.C.

Section 55.2. Resolution 30 of the 1997 Session Laws is amended by deleting "October 18, 1993;" where it appears in the Resolution, and substituting "October 28, 1993;".

Section 55.2A. If House Bill 87, 1997 Regular Session is enacted, then G.S. 66-58(b)(8) as rewritten by that act reads as rewritten:

- "(8) The Greater University of North Carolina with regard to its utilities and other services now operated by it nor to the sale of articles produced incident to the operation of instructional departments, articles incident to educational research, articles of merchandise incident to classroom work, meals, books, or to articles of merchandise not exceeding twenty-five cents (25¢) in value when sold to members of the educational staff or staff auxiliary to education or to duly enrolled students or occasionally to immediate members of the families of members of the educational staff or of duly enrolled students nor to the sale of meals or merchandise to persons attending meetings or conventions as invited guests nor to the operation by the University of North Carolina of an inn or hotel and dining and other facilities usually connected with a hotel or inn, nor to the hospital and Medical School of the University of North Carolina, nor to the Coliseum of North Carolina State University at

~~Raleigh, nor to the Centennial Campus of North Carolina State University at Raleigh, and the other schools and colleges for higher education maintained or supported by the State, nor to the Centennial Campus of North Carolina State University at Raleigh, nor to the comprehensive student health services or the comprehensive student infirmaries maintained by the constituent institutions of the University of North Carolina."~~

Section 55.2B. Section 3 of S.L. 1997-337 reads as rewritten:

"Section 3. This act is effective when it becomes law. ~~law, expires 1 July 2000, and applies to permits granted and applications submitted prior to 1 July 2000. Any permits granted or applications issued prior to July 1, 2000 shall be transferable."~~

Section 55.3. Section 5.8 of Senate Bill 727, 1997 Regular Session, as enacted, reads as rewritten:

"Section 5.8. The amendment to G.S. 55-1-22(a)(23), made by Section 5.1 of this act, becomes effective January 1, 1998, and applies to tax years ending on or after December 31, 1997. The remaining changes made by Section 5.1 of this act become effective ~~September~~ October 1, 1997. Sections 5.2 and 5.3 of this act become effective ~~September~~ October 1, 1997. Sections 5.4 through 5.7 of this act become effective ~~September~~ November 1, 1997."

Section 55.4. Section 13 of S.L. 1997-430 reads as rewritten:

"Section 13. ~~G.S. 115C-238.29F(e)(4), as amended by Section 5 of this act, is effective on the first day of the calendar month following the State's receipt of a favorable letter of determination or ruling from the Internal Revenue Service, United States Department of Treasury, under Section 12 of this act. The remainder of this~~ This act is effective when it becomes law."

Section 55.5. G.S. 105-116.1(c)(4), as amended by S.L. 97-118, reads as rewritten:

"(4) If the adjusted 1995-96 amount is more than the city's 1990-91 distribution, the hold-back amount for the city is the city's freeze deduction minus the difference between the city's ~~adjusted 1995-96 amount and the city's 1990-91 distribution.~~ 1990-91 distribution and the city's 1995-96 distribution."

Section 55.6. (a) Newly enacted G.S. 143-215.85A(a)(2) as it appears in Section 5 of S.L. 1997-394 is rewritten to read:

"(2) The type, location, and quantity of oil or hazardous substances known to the owner of the site to exist on the site."

(b) G.S. 143-215.85A(a), as amended by subsection (a) of this section, reads as rewritten:

"(a) The owner of the real property on which a site is located that is subject to current or future use restrictions approved as provided in ~~G.S. 143-215.84(e)~~ G.S. 143-215.84(f) shall submit to the Department a survey plat as required by this section within 180 days after the owner is notified to do so. The survey plat shall identify areas designated by the Department, shall be prepared and certified by a professional land surveyor, and shall be entitled 'NOTICE OF OIL OR HAZARDOUS SUBSTANCE DISCHARGE SITE'. Where an oil or hazardous substance discharge site is located on more than one parcel or tract of land, a composite map or plat showing all

parcels or tracts may be recorded. The Notice shall include a legal description of the site that would be sufficient as a description in an instrument of conveyance, shall meet the requirements of G.S. 47-30 for maps and plats, and shall identify:

- (1) The location and dimensions of the disposal areas and areas of potential environmental concern with respect to permanently surveyed benchmarks.
- (2) The type, location, and quantity of oil or hazardous substances known by the owner of the site to exist on the site.
- (3) Any restrictions approved by the Department on the current or future use of the site."

Section 55.7. G.S. 113-173(b), as enacted in S.L. 1997-400, reads as rewritten:

"(b) Sale of Fish Prohibited. -- It is unlawful for the holder of a RCGL or for a person who is exempt under ~~subsection (k)~~ subsection (j) of this section to sell fish taken under the RCGL or pursuant to the exemption."

Section 55.8. G.S. 31-5.5(a), reads as rewritten:

"(a) A will shall not be revoked by the subsequent birth of a child to the testator, or by the subsequent adoption of a child by the testator, or by the subsequent entitlement of an after-born illegitimate child to take as an heir of the testator pursuant to the provisions of G.S. 29-19(b), but any after-born, after-adopted or entitled after-born illegitimate child shall have the right to share in the testator's estate to the same extent he would have shared if the testator had died intestate unless:

- (1) The testator made some provision in the will for the child, whether adequate or not;
- (2) It is apparent from the will itself that the testator intentionally did not make specific provision therein for the child;
- (3) The testator had children living when the will was executed, and none of the testator's children actually take under the will;
- (4) The surviving spouse receives all of the estate under the will; or
- (5) The testator made provision for the child that takes effect upon the death of the testator, whether adequate or not."

Section 55.9. If House Bills 299 and 435, 1997 Regular Session, both become law before October 1, 1997, then G.S. 135-40.7(19) as enacted by House Bill 299 is recodified as G.S., 135-40.7(22).

Section 55.10. If Senate Bill 352 becomes law, then G.S. 108A-27.9(c)(2), as enacted by Section 12.6 of that act, reads as rewritten:

"(2) Provisions to ensure the establishment and maintenance of grievance procedures to resolve complaints by regular employees who allege that the employment or assignment of a Work First Program recipient is in violation of subdivision ~~(3)~~ (1) of this subsection;"

Section 56.2. (a) G.S. 48-3-706(a) reads as rewritten:

"(a) A relinquishment of an infant who is in utero or is three months old or less at the time the relinquishment is executed may be revoked within 21 days following the day on which it is executed, inclusive of weekends and holidays. A relinquishment of any other minor may be revoked within seven days following the day on which it is executed, inclusive of weekends

and holidays. If the final day of the period falls on a weekend or a North Carolina or federal holiday, then the revocation period extends to the next business day. The individual who gave the relinquishment may revoke by giving written notice to the agency to which the relinquishment was given. Notice may be given by personal delivery, overnight delivery service, or registered or certified mail, return receipt requested. If notice is given by mail, notice is deemed complete when it is deposited in the United States mail, postage prepaid, addressed to the agency at the agency's address as given in the relinquishment. If notice is given by overnight delivery service, notice is deemed complete on the date it is deposited with the service as shown by the receipt from the service, with delivery charges paid by the sender, addressed to the agency at the agency's address as given in the relinquishment."

(b) This section applies to notices given on or after the effective date of this act.

Section 56.3. If Senate Bill 352, 1997 Regular Session, is enacted, then Section 28(a) of Senate Bill 352, 1997 Regular Session, as enacted in that act, reads as rewritten:

"The Office of State Controller is encouraged to consider new technologies and capabilities as a means of providing NCIH users access to the existing or upgraded ATM-SONET network. The Office of State Controller shall report to the General Assembly in 1998 before the convening of the regular session on its findings."

Section 56.4. (a) If Senate Bill 352, 1997 Regular Session, is enacted, the entry in Section 8.30(b) of Senate Bill 352, 1997 Regular Session, for Step 24 of Principal V, Base + 1%, is amended by deleting "4216" and substituting "4261".

(b) If Senate Bill 352, 1997 Regular Session, is enacted, Section 8.30(f) of Senate Bill 352, 1997 Regular Session, is amended by deleting "1997-98" and substituting "1998-99".

Section 56.5. Section 32.27(b) of the Ratified Version of Senate Bill 352, 1997 General Assembly, reads as rewritten:

"(b) Section 3.1 of S.L. 1997-393 House Bill 993 as ratified, reads as rewritten:

'Section 3.1. If The Major Investment Study (MIS) authorized in Senate Bill 352 is as enacted and which provides that funds appropriated to the Department of Transportation for the 1997-98 fiscal year shall be used to fund a Major Investment Study (MIS) which shall include: including:

- (1) A passenger rail proposal providing service between Asheville and Raleigh through Winston-Salem generally following the I-40 corridor; and
- (2) A passenger rail proposal providing for commuter rail services between Winston-Salem, Greensboro, High Point, and outlying communities,

~~then notwithstanding that act, the MIS authorized in~~ shall be administered by the Regional Transportation Authority created under this act which includes Guilford and Forsyth Counties, in consultation with the Department of Transportation, the Forsyth County Metropolitan Planning Organization (MPO), the Greensboro MPO, and the High Point MPO.'".

Section 7.12(b) of Ratified Senate Bill 352, 1997 Session, reads as rewritten:

"(b) State funds that are designated to ~~match federal funds~~ for disaster relief, but that are not needed as ~~matching funds~~, for that purpose, shall revert to the General Fund."

Section 56.7. Senate Bill 352 of the 1997 General Assembly, as enacted, is amended by renumbering Section 18.13 as Section 18.13 (a) and by adding a new subsection (b) to read:

"(b) The Judicial Department may use funds appropriated to the Department for the 1997-99 biennium to establish a magistrate position in Davidson County."

Section 56.8. If House Bill 1087, 1997 General Assembly, becomes law, then G.S. 14-159.3(a)(2), as enacted in House Bill 1087, 1997 General Assembly, reads as rewritten:

"(2) Within the banks of any stream or waterway, but excluding a sound or the Atlantic Ocean, the adjacent lands of which are not owned by the operator, without the consent of the owner or outside the restrictions imposed by the owner."

Section 56.9. Section 28.9 of Chapter 507 of the 1995 Session Laws is amended by adding the following sentence at the end of that section to read: "Section 23.22 of this act shall be effective until the end of the 1997-99 fiscal biennium."

Section 56.10. A person 19 years of age or older shall be financially eligible for the Adult Cystic Fibrosis Program if the person's net family income is at or below the federal poverty level in effect on July 1 of each year.

Section 57. Unless otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law upon approval of the Governor at 1:46 p.m. on the 29th day of August, 1997.

S.B. 842

CHAPTER 457

AN ACT TO EXEMPT PERSONS PERFORMING CERTAIN ALTERATIONS, REMODELING, AND RENOVATIONS OF EXISTING BUILDINGS OR STRUCTURES FROM THE ARCHITECTURAL LICENSURE REQUIREMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 83A-13(c)(5) reads as rewritten:

"(5) Alteration, ~~remodeling~~ remodeling, or renovation of an existing building ~~which that~~ is exempt under this section, or alteration, remodeling, or renovation of an existing building or building site ~~which that~~ does not alter or affect the structural system of the building; change the building's access or exit pattern; or change the live or dead load on the building's structural system. This subdivision shall not limit or change any other exemptions to this

Chapter or to the practice of engineering under Chapter 89C of the General Statutes."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 19th day of August, 1997.

Became law upon approval of the Governor at 6:00 p.m. on the 29th day of August, 1997.

H.B. 515

CHAPTER 458

AN ACT TO ENACT THE CLEAN WATER RESPONSIBILITY AND ENVIRONMENTALLY SOUND POLICY ACT, A COMPREHENSIVE AND BALANCED PROGRAM TO PROTECT WATER QUALITY, PUBLIC HEALTH, AND THE ENVIRONMENT.

The General Assembly of North Carolina enacts:

PART I. MORATORIA ON CONSTRUCTION OR EXPANSION OF SWINE FARMS

Section 1.1. (a) Moratorium Established. -- As used in this section, "swine farm" and "lagoon" have the same meaning as in G.S. 106-802. As used in this section, "animal waste management system" has the same meaning as in G.S. 143-215.10B. There is hereby established a moratorium on the construction or expansion of swine farms and on lagoons and animal waste management systems for swine farms. The purposes of this moratorium are to allow counties time to adopt zoning ordinances under G.S. 153A-340, as amended by Section 2.1 of this act; to allow time for the completion of the studies authorized by the 1995 General Assembly (1996 Second Extra Session); and to allow the 1999 General Assembly to receive and act on the findings and recommendations of those studies. Except as provided in subsection (b) of this section, the Environmental Management Commission shall not issue a permit for an animal waste management system for a new swine farm or the expansion of an existing swine farm for a period beginning on 1 March 1997 and ending on 1 March 1999. The construction or expansion of a swine farm or animal waste management system for a swine farm is prohibited during the period of the moratorium regardless of the date on which a site evaluation for the swine farm is completed and regardless of whether the animal waste management system is permitted under G.S. 143-215.1 or Part 1A of Article 21 of Chapter 143 of the General Statutes or deemed permitted under 15A North Carolina Administrative Code 2H.0217.

(b) Exceptions. -- The moratorium established by subsection (a) of this section does not prohibit:

- (1) Construction to repair a component of an existing swine farm or lagoon.
- (2) Construction to replace a component of an existing swine farm or lagoon if the replacement does not result in an increase in swine population, except as provided in subdivision (3) or (7) of this subsection.

- (3) Construction or expansion for the purpose of increasing the swine population to the projected population or to the population that the animal waste management system serving that swine farm is designed to accommodate, as set forth in a certified animal waste management plan filed with the Department of Environment, Health, and Natural Resources prior to 1 March 1997.
- (4) Construction or expansion for the purpose of complying with applicable animal waste management rules and not for the purpose of increasing the swine population.
- (5) Construction or expansion, if the person undertaking the construction or expansion of the swine farm, lagoon, or animal waste management system has been issued a permit for that construction or expansion under G.S. 143-215.1 or Part 1A of Article 21 of Chapter 143 of the General Statutes prior to the date this act becomes effective.
- (6) Construction or expansion, if the person undertaking the construction or expansion of the swine farm, lagoon, or animal waste management system has, prior to 1 March 1997, either:
 - a. Laid a foundation for a component of the swine farm, lagoon, or animal waste management system.
 - b. Entered into a bona fide written contract for the construction or expansion of the swine farm, lagoon, or animal waste management system.
 - c. Been approved for a loan or line of credit to finance the construction or expansion of the swine farm, lagoon, or animal waste management system and has obligated or expended funds derived from the loan or line of credit.
- (7) Construction or expansion of an innovative animal waste management system that does not employ an anaerobic lagoon and that has been approved by the Department of Environment, Health, and Natural Resources.

(c) Establishing Eligibility for an Exemption. -- It shall be the responsibility of an applicant for a permit for an animal waste management system for a new swine farm or for the expansion of an existing swine farm under subdivisions (1) through (7) of subsection (b) of this section to provide information and documentation to the Department of Environment, Health, and Natural Resources that establishes, to the satisfaction of the Department, that the applicant is eligible for the permit. In demonstrating eligibility for a permit under this section, the burden of proof shall be on the applicant.

Section 1.2. (a) As used in this section, "swine farm" and "lagoon" have the same meaning as in G.S. 106-802. As used in this section, "animal waste management system" has the same meaning as in G.S. 143-215.10B. There is hereby established a moratorium for any new or expanding swine farm or lagoon for which a permit is required under Parts 1 or 1A of Chapter 143 of the General Statutes in any county in the State: (i) that has a population of less than 75,000 according to the most recent decennial federal census; (ii) in which there is more than one hundred fifty million dollars (\$150,000,000) of expenditures for travel and tourism based

on the most recent figures of the Department of Commerce; and (iii) that is not in the coastal area as defined by G.S. 113A-103. Effective 1 January 1997, until 1 March 1999, the Environmental Management Commission shall not issue a permit for an animal waste management system, as defined in G.S. 143-215.10B, or for a new or expanded swine farm or lagoon, as defined in G.S. 106-802. The exemptions set out in subsection (b) of Section 1.1 of this act do not apply to the moratorium established under this section.

(b) In order to protect travel and tourism, effective 1 March 1999, no animal waste management system shall be permitted except under an individual permit issued under Part 1 of Article 21 of Chapter 143 of the General Statutes in any county in the State: (i) that has a population of less than 75,000 according to the most recent decennial federal census; (ii) in which there is more than one hundred fifty million dollars (\$150,000,000) of expenditures for travel and tourism based on the most recent figures of the Department of Commerce; and (iii) that is not in the coastal area as defined by G.S. 113A-103.

PART II. AGRICULTURAL ZONING BY COUNTIES

Section 2.1. G.S. 153A-340 reads as rewritten:

"§ 153A-340. *Grant of power.*

(a) For the purpose of promoting health, safety, morals, or the general welfare, a county may regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of lots that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes, and to provide density credits or severable development rights for dedicated rights-of-way pursuant to G.S. 136-66.10 or G.S. 136-66.11.

- (b) (1) These regulations may not affect property used for bona fide farms, but any farm purposes only as provided in subdivision (3) of this subsection. This subsection does not limit regulation under this Part with respect to the use of farm property for nonfarm purposes is subject to the regulations. purposes.
- (2) Bona fide farm purposes include the production and activities relating or incidental to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agricultural products having a domestic or foreign market.
- (3) The definitions set out in G.S. 106-802 apply to this subdivision. A county may adopt zoning regulations governing swine farms served by animal waste management systems having a design capacity of 600,000 pounds steady state live weight (SSLW) or greater provided that the zoning regulations may not have the effect of excluding swine farms served by an animal waste management system having a design capacity of 600,000 pounds SSLW or greater from the entire zoning jurisdiction.

(c) The regulations may provide that a board of adjustment may determine and vary their application in harmony with their general purpose and intent and in accordance with general or specific rules therein contained. The regulations may also provide that the board of adjustment or the board of commissioners may issue special use permits or conditional use permits in the classes of cases or situations and in accordance with the principles, conditions, safeguards, and procedures specified therein and may impose reasonable and appropriate conditions and safeguards upon these permits. Where appropriate, the conditions may include requirements that street and utility rights-of-way be dedicated to the public and that recreational space be provided. When issuing or denying special use permits or conditional use permits, the board of commissioners shall follow the procedures for boards of adjustment except that no vote greater than a majority vote shall be required for the board of commissioners to issue such permits, and every such decision of the board of commissioners shall be subject to review by the superior court by proceedings in the nature of certiorari.

(d) A county may regulate the development over estuarine waters and over lands covered by navigable waters owned by the State pursuant to G.S. 146-12, within the bounds of that county.

(e) For the purpose of this section, the term 'structures' shall include floating homes.

(f) Any petition for review by the superior court shall be filed with the clerk of superior court within 30 days after the decision of the board of commissioners is filed in such office as the ordinance specifies, or after a written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the clerk at the time of the hearing of the case, whichever is later. The decision of the board of commissioners may be delivered to the aggrieved party either by personal service or by registered mail or certified mail return receipt requested."

Section 2.2. Zoning regulations governing swine farms served by animal waste management systems having a design capacity of 600,000 pounds steady state live weight (SSLW) or greater adopted under G.S. 153A-340(b), as amended by Section 2.1 of this act, shall not, with respect to a swine farm in existence at the time the zoning ordinance is adopted:

- (1) Prohibit the continued existence of the swine farm.
- (2) Require the amortization of the swine farm.
- (3) Prohibit the repair or replacement on the same site of the swine farm so long as the repair or replacement does not increase the swine population beyond the population that the animal waste management system serving the swine farm is designed to accommodate, as set forth in the permit for the animal waste management system.

PART III. CONTROL OF ODOR EMISSIONS FROM ANIMAL OPERATIONS

Section 3.1. G.S. 143-215.107(a) is amended by adding a new subdivision to read:

"(11) To develop and adopt economically feasible standards and plans necessary to implement programs to control the emission of odors from animal operations, as defined in G.S. 143-215.10B."

Section 3.2. The Board of Governors of The University of North Carolina shall present its final report and recommendations on economically feasible odor control technologies, as provided in Section 27.3 of Chapter 18 of the 1995 Session Laws (1996 Second Extra Session), to the Environmental Review Commission and the Environmental Management Commission not later than 1 September 1998. If economically feasible odor control technology for animal operations is available, the Environmental Management Commission shall adopt a temporary rule to regulate the emission of odors from animal operations under G.S. 143-215.107(a)(11), as enacted by Section 3.1 of this act, no later than 1 March 1999. The Environmental Management Commission shall report on its progress in developing and adopting a rule to regulate the emission of odors from animal waste management systems as a part of each quarterly report the Environmental Management Commission makes to the Environmental Review Commission pursuant to G.S. 143B-282(b).

PART IV. SWINE FARM SITING ACT AMENDMENTS

Section 4.1. Article 67 of Chapter 106 of the General Statutes reads as rewritten:

"ARTICLE 67.

"Swine Farms.

"§ 106-800. *Title.*

This Article shall be known as the 'Swine Farm Siting Act'.

"§ 106-801. *Purpose.*

The General Assembly finds that certain limitations on the siting of swine houses and lagoons for swine farms can assist in the development of pork production, which contributes to the economic development of the State, by lessening the interference with the use and enjoyment of adjoining property.

"§ 106-802. *Definitions.*

As used in this Article, unless the context clearly requires otherwise:

- (1) 'Lagoon' means a confined body of water to hold animal byproducts including bodily waste from animals or a mixture of waste with feed, bedding, litter or other agricultural materials.
- (2) Repealed by Session Laws 1997 (Regular Session, 1996), c. 626, s. 7.
- (3) 'Occupied residence' means a dwelling actually inhabited by a person on a continuous basis as exemplified by a person living in his or her home.
- (3a) 'Outdoor recreational facility' means any plot or tract of land on which there is located an outdoor swimming pool, tennis court, or golf course that is open to either the general public or to the members and guests of any organization having 50 or more members.

- (4) 'Site evaluation' means an investigation to determine if a site meets all federal and State standards as evidenced by the Waste Management Facility Site Evaluation Report on file with the Soil and Water Conservation District office or a comparable report certified by a professional engineer or a comparable report certified by a technical specialist approved by the North Carolina Soil and Water Conservation Commission.

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- (5) 'Swine farm' means a tract of land devoted to raising 250 or more animals of the porcine species.
- (6) 'Swine house' means a building that shelters porcine animals on a continuous basis.

"§ 106-803. *Siting requirements for swine houses, lagoons, and land areas onto which waste is applied at swine farms.*

(a) A swine house or a lagoon that is a component of a swine farm shall be ~~located~~ located:

- (1) at At least 1,500 feet from any occupied residence; residence.
- (2) at At least 2,500 feet from any school, hospital, church; and school; hospital; church; outdoor recreational facility; national park; State Park, as defined in G.S. 113-44.9; historic property acquired by the State pursuant to G.S. 121-9 or listed in the North Carolina Register of Historic Places pursuant to G.S. 121-4.1; or child care center, as defined in G.S. 110-86, that is licensed under Article 7 of Chapter 110 of the General Statutes.
- (3) at At least 500 feet from any property boundary.
- (4) At least 500 feet from any well supplying water to a public water system, as defined in G.S. 130A-313.
- (5) At least 500 feet from any other well that supplies water for human consumption. This subdivision does not apply to a well located on the same parcel or tract of land on which the swine house or lagoon is located and that supplies water only for use on that parcel or tract of land or for use on adjacent parcels or tracts of land all of which are under common ownership or control.

(a1) The outer perimeter of the land area onto which waste is applied from a lagoon that is a component of a swine farm shall be at least 50 75 feet from any boundary of property on which an occupied residence is located and from any perennial stream or river, other than an irrigation ditch or canal.

(a2) No component of a liquid animal waste management system for which a permit is required under Part 1 or 1A of Article 21 of Chapter 143 of the General Statutes, other than a land application site, shall be constructed on land that is located within the 100-year floodplain.

(b) A swine house or a lagoon that is a component of a swine farm may be located closer to a residence, school, hospital, church, or a property boundary than is allowed under subsection (a) of this section if written permission is given by the owner of the property and recorded with the Register of Deeds.

"§ 106-804. *Enforcement.*

(a) Any person ~~owning who owns~~ property directly affected by the siting requirements of G.S. 106-803 pursuant to subsection (b) of this section may bring a civil action against ~~a swine farmer~~ the owner or operator of a swine farm who has violated G.S. 106-803 and may seek any one or more of the following:

- (1) Injunctive relief.
- (2) An order enforcing the siting requirements under G.S. 106-803.
- (3) Damages caused by the violation.

(b) A person is directly affected by the siting requirements of G.S. 106-803 only if the person ~~owns; owns a facility or property located within~~ the siting requirements specified under G.S. 106-803.

- (1) ~~An occupied residence located less than 1,500 feet from a swine house or lagoon in violation of G.S. 106-803.~~
- (2) ~~A school, hospital, or church located less than 2,500 feet from a swine house or lagoon in violation of G.S. 106-803.~~
- (3) ~~Property whose boundary is located less than 500 feet from a swine house or lagoon in violation of G.S. 106-803.~~
- (4) ~~Property on which an occupied residence is located and whose boundary is less than 50 feet from the outer perimeter of the land area onto which waste is applied from a lagoon that is a component of a swine farm in violation of G.S. 106-803.~~
- (5) ~~Property that abuts a perennial stream or river, or on which a perennial stream or river is located, and that property and that perennial stream or river are less than 50 feet from the outer perimeter of the land area onto which waste is applied from a lagoon that is a component of a swine farm in violation of G.S. 106-803.~~

(c) If the court determines it is appropriate, the court may award court costs, including reasonable attorneys' fees and expert witnesses' fees, to any party. If a temporary restraining order or preliminary injunction is sought, the court may require the filing of a bond or equivalent security. The court shall determine the amount of the bond or security.

(d) Nothing in this section shall restrict any other right that any person may have under any statute or common law to seek injunctive or other relief.

"§ 106-805. Written notice of swine farms.

Any person who intends to construct a swine farm whose animal waste management system is subject to a permit under Part 1 or 1A of Article 21 of Chapter 143 of the General Statutes shall, after completing a site evaluation and before the farm site is modified, ~~attempt to~~ notify all adjoining property owners and owners; all property owners who own property located across a public road, street, or highway from the swine farm; the county or counties in which the farm site is located; and the local health department or departments having jurisdiction over the farm site of that person's intent to construct the swine farm. This notice shall be by certified mail sent to the address on record at the property tax office in the county in which the land is located. Notice to a county shall be sent to the county manager or, if there is no county manager, to the chair of the board of county commissioners. Notice to a local health department shall be sent

to the local health director. The written notice shall include all of the following:

- (1) The name and address of the person intending to construct a swine farm.
- (2) The type of swine farm and the design capacity of the animal waste management system.
- (3) The name and address of the technical specialist preparing the waste management plan.
- (4) The address of the local Soil and Water Conservation District office.
- (5) Information informing the adjoining property owners and the property owners who own property located across a public road, street, or highway from the swine farm that they may submit written comments to the Division of Water Quality, Department of Environment, Health, and Natural Resources."

Section 4.2. The amendments to subsections (a) and (a1) of G.S. 106-803 made by Section 4.1 of this act and G.S. 106-803(a2), added to G.S. 106-803 by Section 4.1 of this act, apply to any new liquid animal waste management system for which construction commences on or after the date this act becomes law and to any expansion of an existing liquid animal waste management system for which construction commences on or after the date this act becomes law.

PART V. PRIORITY FOR LOANS OR GRANTS FROM THE CLEAN WATER REVOLVING LOAN AND GRANT FUND TO ASSIST LOCAL GOVERNMENTS IN MEETING THE NITROGEN AND PHOSPHOROUS LIMITS FOR SURFACE WATERS; PRIORITY FOR FUNDING FROM VARIOUS FUNDING SOURCES BASED ON COMPREHENSIVE LAND-USE PLANNING BY LOCAL GOVERNMENTS

Section 5.1. G.S. 159G-10 reads as rewritten:

"§ 159G-10. *Priorities.*

(a) **Determination.** -- Determination of priorities to be assigned each eligible application shall be made semiannually by each receiving agency during each fiscal year. Every eligible application filed under G.S. 159G-5(c), G.S. 159G-6(b)(1) or G.S. 159G-6(c)(1) shall be considered by the receiving agency with every other application filed under G.S. 159G-5(c), G.S. 159G-6(b)(1) or G.S. 159G-6(c)(1), respectively, and eligible for consideration during the same priority period, to determine the priority to be assigned to each application. The same procedure shall apply to every eligible application filed under G.S. 159G-6(b)(3) and G.S. 159G-6(c)(3) of this Chapter. Any application which does not contain the information required by this Chapter or regulations adopted by the receiving agency(s) shall not be deemed received until such information is furnished by the applicant to the receiving agency.

(a1) (See note) Expired.

(b) **Priority Factors.** -- All applications for revolving loans or grants under this Chapter eligible for consideration during each priority period

shall be assigned a priority for such funds by the receiving agency. The priority factors shall be similar to those developed under the North Carolina Clean Water Bond Act of 1977, as provided in and modified by this subsection.

(1) General Criteria. --

a. The general criteria provided in 1 NCAC 22.0401 through .0403 on January 1, 1987, shall apply, except that 1 NCAC 22.0401(c) shall apply only to State funds appropriated to match available federal funds.

b. The existence of a comprehensive land-use plan that meets the requirements of subsection (e) of this section is a general criterion for prioritizing which local government units will receive a loan or grant. A local government unit that is not authorized to adopt a comprehensive land-use plan but that is located in whole or in part in another local government unit that has adopted a comprehensive land-use plan shall receive the same priority treatment as a local government unit that has authority to adopt a comprehensive land-use plan. A comprehensive land-use plan that meets the requirements of subsection (e) of this section and that exceeds the minimum State standards for protection of water resources shall receive more points than a plan that does not exceed those standards. Additional points may be awarded for actions taken toward implementation of a comprehensive land-use plan. These actions may include the adoption of a zoning ordinance or any other measure that significantly contributes to the implementation of the comprehensive land-use plan.

(2) Wastewater Treatment Work Projects. -- The priority criteria provided in 1 NCAC 22.0501 through .0506 on January 1, 1987, shall apply to applications for wastewater treatment work projects, except that 1 NCAC 22.0503 shall not apply.

(3) Wastewater Collection System Projects. -- The priority criteria provided in 1 NCAC 22.0601 through .0606 on January 1, 1987, shall apply to applications for wastewater collection system projects, except that 1 NCAC 22.0601(2)(a) and (3), and 1 NCAC 22.0605(2), (3) and (4) shall not apply.

(4) Water Supply System Projects. -- The priority criteria provided in 1 NCAC 22.0701 through .0704 on January 1, 1987, shall apply to applications for water supply system projects.

(5) Wastewater Treatment Works Improvements to Meet Nitrogen and Phosphorous Limits. -- The Environmental Management Commission shall adopt a rule specifying priority criteria for modifications to existing permitted wastewater treatment facilities that are owned or operated by local government units and that are subject to G.S. 143-215.1(c1) or G.S.

143-215.1(c2) to enable local government units to comply with G.S. 143-215.1(c1) and G.S. 143-215.1(c2).

- (5) (6) The total number of points available in the respective categories shall be deemed adjusted in accordance with the provisions of subdivisions (1) through (4) (5) of this subsection.

(c) Assignment of Priority. -- A written statement relative to each priority assigned shall be prepared by the receiving agency and shall be attached to the application. The priority assigned shall be conclusive.

(d) Failure to Qualify. -- Any application filed under G.S. 159G-5(c), G.S. 159G-6(b) or G.S. 159G-6(c) that does not qualify for a revolving loan or grant as of the priority period in which the application was eligible for consideration by reason of the priority assigned the application shall be considered for a revolving loan or grant during the next succeeding priority period upon request of the applicant. If such application should again fail to qualify for a revolving loan or grant during the second priority period by reason of the priority assigned, the application shall receive no further consideration. An applicant may file a new application at any time, and may amend any pending application to include additional data or information.

(e) Land-Use Plan. -- Local government units are encouraged to adopt comprehensive land-use plans. The Division of Community Assistance in the Department of Commerce shall, upon request, provide technical assistance to any economically distressed local government unit in preparing a comprehensive land-use plan. A comprehensive land-use plan that meets the requirements of Article 18 of Chapter 153A of the General Statutes or Article 19 of Chapter 160A of the General Statutes shall contain reasonable provisions designed to protect existing water uses and assure compliance with water quality standards and classifications in all waters of the State affected by the land-use plan."

Section 5.2. G.S. 159G-3 is amended by adding a new subdivision to read:

"(7a) 'Economically distressed local government unit' means a local government unit located, in whole or in part, in a county designated as economically distressed by the Secretary of Commerce under G.S. 143B-437A."

PART VI. NITROGEN AND PHOSPHOROUS LIMITS FOR SURFACE WATERS

Section 6.1. G.S. 143-215.1 is amended by adding five new subsections to read:

"(c1) Any person who is required to obtain an individual wastewater permit under this section for a facility discharging to the surface waters of the State that have been classified as nutrient sensitive waters (NSW) under rules adopted by the Commission shall not discharge more than an average annual mass load of total nitrogen than would result from a discharge of the permitted flow, determined at the time the Commission makes a finding that those waters are experiencing or are subject to excessive growth of microscopic or macroscopic vegetation, having a total nitrogen concentration

of five and one-half milligrams of nitrogen per liter (5.5 mg/l). The total nitrogen concentration of 5.5 mg/l for nutrient sensitive waters required by this subsection applies only to:

- (1) Facilities that were placed into operation prior to 1 July 1997 or for which an authorization to construct was issued prior to 1 July 1997 and that have a design capacity to discharge 500,000 gallons per day or more.
- (2) Facilities for which an authorization to construct is issued on or after 1 July 1997.

(c2) Any person who is required to obtain an individual wastewater permit under this section for a facility discharging to the surface waters of the State that have been classified as nutrient sensitive waters (NSW) under rules adopted by the Commission where phosphorous is designated by the Commission as a nutrient of concern shall not discharge more than an average annual mass load of total phosphorous than would result from a discharge of the permitted flow, determined at the time the Commission makes a finding that those waters are experiencing or are subject to excessive growth of microscopic or macroscopic vegetation, having a total phosphorous concentration of two milligrams of phosphorous per liter (2.0 mg/l). The total phosphorous concentration of 2.0 mg/l for nutrient sensitive waters required by this subsection applies only to:

- (1) Facilities that were placed into operation prior to 1 July 1997 or for which an authorization to construct was issued prior to 1 July 1997 and that have a design capacity to discharge 500,000 gallons per day or more.
- (2) Facilities for which an authorization to construct is issued on or after 1 July 1997.

(c3) A person to whom subsection (c1) or (c2) of this section applies may meet the limits established under those subsections either individually or on the basis of a cooperative agreement with other persons who hold individual wastewater permits if the cooperative agreement is approved by the Commission. A person to whom subsection (c1) or (c2) of this section applies whose agreement to accept wastewater from another wastewater treatment facility that discharges into the same water body and that results in the elimination of the discharge from that wastewater treatment facility shall be allowed to increase the average annual mass load of total nitrogen and total phosphorous that person discharges by the average annual mass load of total nitrogen and total phosphorous of the wastewater treatment facility that is eliminated. If the wastewater treatment facility that is eliminated has a permitted flow of less than 500,000 gallons per day, the average annual mass load of total nitrogen or phosphorous shall be calculated from the most recent available data. A person to whom this subsection applies shall comply with nitrogen and phosphorous discharge monitoring requirements established by the Commission. This average annual load of nitrogen or phosphorous shall be assigned to the wastewater discharge allocation of the wastewater treatment facility that accepts the wastewater.

(c4) A person to whom subsection (c1) of this section applies may request the Commission to approve a total nitrogen concentration greater than that set out in subsection (c1) of this section at a decreased permitted

flow so long as the average annual mass load of total nitrogen is equal to or is less than that required under subsection (c1) of this section. A person to whom subsection (c2) of this section applies may request the Commission to approve a total phosphorous concentration greater than that set out in subsection (c2) of this section at a decreased permitted flow so long as the average annual mass load of total phosphorous is equal to or is less than that required under subsection (c2) of this section. If, after any 12-month period following approval of a greater concentration at a decreased permitted flow, the Commission finds that the greater concentration at a decreased permitted flow does not result in an average annual mass load of total nitrogen or total phosphorous equal to or less than those that would be achieved under subsections (c1) and (c2) of this section, the Commission shall rescind its approval of the greater concentration at a decreased permitted flow and the requirements of subsections (c1) and (c2) of this section shall apply.

(c5) For surface waters to which the limits set out in subsection (c1) or (c2) of this section apply and for which a calibrated nutrient response model that meets the requirements of this subsection has been approved by the Commission, mass load limits for total nitrogen or total phosphorous shall be based on the results of the nutrient response model. A calibrated nutrient response model shall be developed and maintained with current data, be capable of predicting the impact of nitrogen or phosphorous in the surface waters, and incorporated into nutrient management plans by the Commission. The maximum mass load for total nitrogen or total phosphorous established by the Commission shall be substantiated by the model and may require individual discharges to be limited at concentrations that are different than those set out in subsection (c1) or (c2) of this section. A calibrated nutrient response model shall be developed by the Department in conjunction with the affected parties and is subject to approval by the Commission."

Section 6.2. G.S. 143-215.6A(a) is amended by adding a new subdivision to read:

"(10) Violates subsections (c1) through (c5) of G.S. 143-215.1 or a rule adopted pursuant to subsections (c1) through (c5) of G.S. 143-215.1."

Section 6.3. By 1 November 1997, the Environmental Management Commission shall develop a schedule of dates between 1 January 1998 and 1 January 2003, by which existing facilities must comply with G.S. 143-215.1(c1) and G.S. 143-215.1(c2), as enacted by Section 6.1 of this act. The schedule of compliance dates shall follow as closely as possible the dates on which permits for existing facilities must be renewed. New facilities and expansions of existing facilities for which an application for a permit is received by the Department of Environment, Health, and Natural Resources on behalf of the Environmental Management Commission prior to the date this act becomes effective shall be treated as existing facilities.

Section 6.4. G.S. 143-215.1(c5), as enacted by Section 6.1 of this act, shall not be construed to invalidate any limit established by the Environmental Management Commission prior to the date this act becomes effective. A limit established by the Environmental Management

Commission prior to the date this act becomes effective may be altered pursuant to a calibrated nutrient response model approved by the Commission in accordance with G.S. 143-215.1(c5), as enacted by Section 6.1 of this act.

PART VII. STORMWATER MANAGEMENT

Section 7.1. G.S. 143-214.7 reads as rewritten:

"§ 143-214.7. *Stormwater runoff rules and programs.*

(a) Policy, Purpose and Intent. -- The Commission shall undertake a continuing planning process to develop and adopt a statewide plan with regard to establishing and enforcing stormwater rules for the purpose of protecting the surface waters of the State. It is the purpose and intent of this section that, in developing stormwater runoff rules and programs, the Commission may utilize stormwater rules established by the Commission to protect classified shellfish waters, water supply watersheds, and outstanding resource waters; and to control stormwater runoff disposal in coastal counties and other nonpoint sources. Further, it is the intent of this section that the Commission phase in the stormwater rules on a priority basis for all sources of pollution to the water. The plan shall be applied evenhandedly throughout the State to address the State's water quality needs. The Commission shall continually monitor water quality in the State and shall revise stormwater runoff rules as necessary to protect water quality. As necessary, the stormwater rules shall be modified to comply with federal regulations.

(b) The Commission shall ~~be authorized and directed to~~ implement stormwater runoff rules and programs for point and nonpoint sources on a phased-in statewide basis. The Commission shall consider standards and best management practices for the protection of the State's water resources in the following order of priority:

- (1) ~~Classified shellfish waters; waters.~~
- (2) ~~Water supply watersheds; watersheds.~~
- (3) ~~Outstanding resource waters; waters.~~
- (4) ~~High quality waters; and waters.~~
- (5) ~~Other waters where~~ All other waters of the State to the extent that the Commission finds control of stormwater is needed to meet the purposes of this Article. ~~Provided however, that prior to implementation of rules under this subdivision (5), the Commission shall consult with the Environmental Review Commission.~~

(c) ~~Chapter 150B of the General Statutes governs adoption of rules by the Commission.~~ The Commission shall develop model stormwater management programs that may be implemented by State agencies and units of local government. Model stormwater management programs shall be developed to protect existing water uses and assure compliance with water quality standards and classifications. A State agency or unit of local government may submit to the Commission for its approval a stormwater control program for implementation within its jurisdiction. To this end, State agencies may adopt rules, and units of local government are authorized to

adopt ordinances and regulations necessary to establish and enforce stormwater control programs. Units of local government are authorized to create or designate agencies or subdivisions to administer and enforce the programs. Two or more units of local government are authorized to establish a joint program and to enter into any agreements that are necessary for the proper administration and enforcement of the program.

(d) The Commission shall review each stormwater management program submitted by a State agency or unit of local government and shall notify the State agency or unit of local government that submitted the program that the program has been approved, approved with modifications, or disapproved. The Commission shall approve a program only if it finds that the standards of the program equal or exceed those of the model program adopted by the Commission pursuant to this section.

(e) The Commission shall annually report to the Environmental Review Commission on the implementation of this section, including the status of any stormwater control programs administered by State agencies and units of local government, on or before 1 October of each year."

Section 7.2. The Environmental Management Commission shall make the first annual report required by G.S. 143-214.7(e), as enacted by Section 7.1 of this act, on or before 1 October 1998.

Section 7.3. The Department of Transportation shall work diligently and in full cooperation with the Division of Water Quality of the Department of Environment, Health, and Natural Resources, using whatever resources may be necessary, to complete the development of a statewide stormwater management permit under the National Pollutant Discharge Elimination System (NPDES). The General Assembly intends that this permit govern all programs administered by the Department of Transportation and that the permit will be issued no later than 1 October 1997. The Department of Transportation and the Division of Water Quality shall jointly report to the Environmental Review Commission as to their progress in meeting the mandate of this section no later than 1 October 1997.

PART VIII. COMPLETION OF BASINWIDE WATER QUALITY MANAGEMENT PLANS FOR EACH OF THE STATE'S SEVENTEEN RIVER BASINS; ADDITIONAL REQUIREMENTS FOR BASINWIDE WATER QUALITY MANAGEMENT PLANS; ADOPTION OF TOTAL MAXIMUM DAILY LOADS FOR EACH RIVER BASIN

Section 8.1. The General Assembly makes the following findings:

- (1) There are 17 major river basins in the State.
- (2) Many activities occur in the vicinity of each of these river basins, and the activities and conditions in one river basin may vary greatly from those in another river basin.
- (3) The public is focusing on the swine industry's role in degrading water quality, but, in fact, numerous other industries and even private citizens are responsible for contributing pollutants to the waters of the State. Among the point source and nonpoint sources of pollutants in our State's waters are: municipal wastewater

facilities, industrial wastewater systems, septic tank systems, stormwater management systems, golf courses, farms that use fertilizers and pesticides for crops, public and commercial lawns and gardens, and atmospheric deposition, as well as animal operations.

- (4) The best and most effective approach to protecting and improving water quality is a comprehensive, systemwide management approach.
- (5) Basinwide water quality management is an approach already being taken by the Department of Environment, Health, and Natural Resources to improve the efficiency, effectiveness, and consistency of its water quality protection program. It is not a new regulatory program; it is a watershed-based approach that provides for basinwide permitting and integration of point and nonpoint source controls through existing regulatory and cooperative programs. The Neuse River Basinwide Management Plan has already been released. Seventeen basinwide plans are planned to be prepared by the Department over the next five years.
- (6) The better solution to improving water quality lies not in abandoning efforts under way in an effort to find a new solution, but to accelerate effective efforts currently in progress by establishing a deadline for completing, and expediting the implementation of, the 17 comprehensive conservation and management plans for each major river basin in the State.
- (7) The public should be informed of the complexity of the problems regarding water quality so that the public can appreciate the effectiveness of a systemwide approach and the degree of effort that has already been expended to address these problems. Public involvement should be encouraged, and public education should be enhanced.

Section 8.2. Part 1 of Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-215.8B. Basinwide water quality management plans.

(a) The Commission shall develop and implement a basinwide water quality management plan for each of the 17 major river basins in the State. In developing and implementing each plan, the Commission shall consider the cumulative impacts of all activities across a river basin and all point sources and nonpoint sources of pollutants, including municipal wastewater facilities, industrial wastewater systems, septic tank systems, stormwater management systems, golf courses, farms that use fertilizers and pesticides for crops, public and commercial lawns and gardens, atmospheric deposition, and animal operations.

(b) Each basinwide water quality management plan shall:

- (1) Provide that all point sources and nonpoint sources of pollutants jointly share the responsibility of reducing the pollutants in the State's waters in a fair, reasonable, and proportionate manner, using computer modeling and the best science and technology reasonably available and considering future anticipated population growth and economic development.

(2) If any of the waters located within the river basin are designated as nutrient sensitive waters, then the basinwide water quality management plan shall establish a goal to reduce the average annual mass load of nutrients that are delivered to surface waters within the river basin from point and nonpoint sources. The Commission shall establish a nutrient reduction goal for the nutrient or nutrients of concern that will result in improvements to water quality such that the designated uses of the water, as provided in the classification of the water under G.S. 143-214.1(d), are not impaired. The plan shall require that incremental progress toward achieving the goal be demonstrated each year. The Commission shall develop a five-year plan to achieve the goal. In developing the plan, the Commission shall determine and allow appropriate credit toward achieving the goal for reductions of water pollution by point and nonpoint sources through voluntary measures.

(c) The Commission shall review and revise its 17 basinwide water quality management plans at least every five years to reflect changes in water quality, improvements in modeling methods, improvements in wastewater treatment technology, and advances in scientific knowledge and, as need to support designated uses of water, modifications to management strategies.

(d) The Commission and the Department shall each report on or before 1 October of each year on an annual basis to the Environmental Review Commission on the progress in developing and implementing basinwide water quality management plans and on increasing public involvement and public education in connection with basinwide water quality management planning. The report to the Environmental Review Commission by the Department shall include a written statement as to all concentrations of heavy metals and other pollutants in the surface waters of the State that are identified in the course of preparing or revising the basinwide water quality management plans.

(e) A basinwide water quality management plan is not a rule and Article 2A of Chapter 150B of the General Statutes does not apply to the development of basinwide water quality management plans. Any water quality standard or classification and any requirement or limitation of general applicability that implements a basinwide water quality management plan is a rule and must be adopted as provided in Article 2A of Chapter 150B of the General Statutes."

Section 8.3. The Environmental Management Commission shall increase its current efforts to involve the public in the development and implementation of the basinwide water quality management plans, including conducting public meetings throughout the State. The Department of Environment, Health, and Natural Resources shall increase public education efforts to inform the public of the complexity of the problems related to water quality, the benefits of taking a comprehensive, systemwide approach to water quality improvement, and the need for all point and nonpoint sources of pollutants to have an active role in reducing pollutants, either by reducing the amount of pollutants used or by improving the treatment and

disposal of wastewater, or both. The Department shall provide information to keep the public well-informed of water quality issues in the State.

Section 8.4. G.S. 143B-282 is amended by adding two new subsections to read:

"(c) The Environmental Management Commission shall implement the provisions of subsections (d) and (e) of 33 U.S.C. § 1313 by identifying and prioritizing impaired waters and by developing appropriate total maximum daily loads of pollutants for those impaired waters. The Commission shall incorporate those total maximum daily loads approved by the United States Environmental Protection Agency into its continuing basinwide water quality planning process.

(d) The Environmental Management Commission may adopt rules setting out strategies necessary for assuring that water quality standards are met by any point or nonpoint source or by any category of point or nonpoint sources that is determined by the Commission to be contributing to the water quality impairment. These strategies may include, but are not limited to, additional monitoring, effluent limitations, supplemental standards or classifications, best management practices, protective buffers, schedules of compliance, and the establishment of and delegations to intergovernmental basinwide groups."

Section 8.5. G.S. 143B-282(a)(2) is amended by adding a new sub-subdivision to read:

"k. To implement basinwide water quality management plans developed pursuant to G.S. 143-215.8B."

Section 8.6. The Environmental Management Commission may adopt rules to implement this Part as provided in Article 2A of Chapter 150B of the General Statutes. The Environmental Management Commission shall not adopt a temporary rule to implement this Part. The Environmental Management Commission shall report on its progress in implementing this Part as a part of each quarterly report the Environmental Management Commission makes to the Environmental Review Commission pursuant to G.S. 143B-282(b).

Section 8.7. The enactment of G.S. 143-215.8B by Section 8.2 shall not be construed to invalidate the development and implementation of basinwide water quality management plans by the Environmental Management Commission and the Department of Environment, Health, and Natural Resources that has occurred prior to the date this act becomes effective.

PART IX. CLARIFICATION THAT THE ENVIRONMENTAL MANAGEMENT COMMISSION MAY REQUIRE INDIVIDUAL AS WELL AS GENERAL PERMITS FOR ANIMAL WASTE MANAGEMENT SYSTEMS

Section 9.1. G.S. 143-215.1(a)(12) reads as rewritten:

"(12) Construct or operate an animal waste management system, as defined in G.S. 143-215.10B, without obtaining a permit under either this Part or Part 1A of this Article."

Section 9.2. G.S. 143-215.10C(a) reads as rewritten:

"(a) No person shall construct or operate an animal waste management system for an animal operation without first obtaining an individual permit under Part 1 of this Article or a general permit under this Part. The Commission shall develop a system of individual and general permits for animal operations based on species, number of animals, and other relevant factors. It is the intent of the General Assembly that most animal waste management systems be permitted under a general permit issued under this Part. The Commission, in its discretion, may require that an animal waste management system be permitted under an individual permit issued under Part 1 of this Article if the Commission determines that an individual permit is necessary to protect water quality, public health, or the environment."

PART X. GRADUATED VIOLATION POINTS SYSTEM FOR SWINE OPERATORS; STUDY OF SWINE INTEGRATORS CIVIL PENALTY LIABILITY

Section 10.1. Part 1 of Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-215.6E. Violation Points System applicable to swine farms.

(a) The Commission shall develop a Violation Points System applicable to permits for animal waste management systems for swine farms. This system shall operate in addition to the provisions of G.S. 143-215.6A. This system shall not alter the authority of the Commission to revoke a permit for an animal waste management system for a swine farm. The Violation Points System shall provide that:

- (1) Violations that involve the greatest harm to the natural resources of the State, the groundwater or surface water quantity or quality, public health, or the environment shall receive the most points and shall be considered significant violations.
- (2) Violations that are committed willfully or intentionally shall be considered significant violations.
- (3) The number of points received shall be directly related to the degree of negligence or willfulness.
- (4) The commission of three significant violations, or the commission of lesser violations that result in a predetermined cumulative number of points, within a limited period of time of not less than five years shall result in the mandatory revocation of a permit.
- (5) The commission of one willful violation that results in serious harm may result in the revocation of a permit.

(b) In developing the Violation Points System under this section, the Commission shall determine the:

- (1) Number of points that lesser violations must cumulatively total to result in the revocation of a permit.
- (2) Limited period of time during which the commission of three significant violations, or the commission of a greater number of lesser violations, will result in the revocation of the operator's permit. This limited period of time shall not be less than five years.
- (3) Duration of the permit revocation.

- (4) Conditions under which the person whose permit is revoked may reapply for another permit for an animal waste management system for a swine farm.

(c) In developing the Violation Points System under this section, the Commission shall provide for an appeals process."

Section 10.2. (a) The Department of Environment, Health, and Natural Resources shall develop a recommended system of civil penalties applicable to integrators of swine operations. These civil penalties shall be imposed upon the revocation of a permit of an operator under contract with that integrator for the production of swine at the time the violation that resulted in the revocation of the operator's permit occurred, whether or not that operator was under contract with that integrator throughout the period of time all the violations that contributed to this permit revocation occurred. In conjunction with developing this system of civil penalties for integrators of swine operations, the Environmental Management Commission shall provide that the Director of the Division of Water Quality of the Department of Environment, Health, and Natural Resources notify all integrators of all violations assessed against operators who are under contract for the production of swine with that integrator and, upon the written request by the integrator, notify that integrator of all violations assessed an operator with whom the integrator contemplates entering into a contract. The Environmental Management Commission shall also study the issue of liability for cleanup costs and appropriate penalties for integrators of swine operations if an operator commits a willful, wanton, or grossly negligent violation that results in significant environmental damage.

(b) No later than 1 March 1998, the Department of Environment, Health, and Natural Resources shall report its findings and recommendations, including legislative proposals, if any, on the issues to be studied under subsection (a) of this section. This report shall include a recommended system of civil penalties applicable to integrators of swine operations for violations by growers who are under contract with that integrator for the production of swine. The Environmental Review Commission shall determine whether to submit a legislative proposal based upon this recommended system to the 1997 General Assembly, 1998 Regular Session.

PART XI. STATE BUREAU OF INVESTIGATION REVIEW OF WASTE DISCHARGE VIOLATIONS AS POSSIBLE FELONIES; ADDITIONAL REQUIREMENTS FOR DEMONSTRATION OF FINANCIAL QUALIFICATION BY CERTAIN PERMIT APPLICANTS

Section 11.1. G.S. 143-215.6B is amended by adding a new subsection to read:

"(k) The Secretary shall refer to the State Bureau of Investigation for review any discharge of waste by any person or facility in any manner that violates this Article or rules adopted pursuant to this Article that involves the possible commission of a felony. Upon receipt of a referral under this section, the State Bureau of Investigation may conduct an investigation and,

if appropriate, refer the matter to the district attorney in whose jurisdiction any criminal offense has occurred. This subsection shall not be construed to limit the authority of the Secretary to refer any matter to the State Bureau of Investigation for review."

Section 11.2. G.S. 143-215.1(b) reads as rewritten:

"(b) Commission's Power as to Permits. --

- (1) The Commission shall act on all permits so as to prevent, so far as reasonably possible, considering relevant standards under State and federal laws, any significant increase in pollution of the waters of the State from any new or enlarged sources. No permit shall be denied and no condition shall be attached to the permit, except when the Commission finds such denial or such conditions necessary to effectuate the purposes of this Article.
- (2) The Commission shall also act on all permits so as to prevent violation of water quality standards due to the cumulative effects of permit decisions. Cumulative effects are impacts attributable to the collective effects of a number of projects and include the effects of additional projects similar to the requested permit in areas available for development in the vicinity. All permit decisions shall require that the practicable waste treatment and disposal alternative with the least adverse impact on the environment be utilized.
- (3) General permits may be issued under rules adopted pursuant to Chapter 150B of the General Statutes. Such rules may provide that minor activities may occur under a general permit issued in accordance with conditions set out in such rules. All persons covered under general permits shall be subject to all enforcement procedures and remedies applicable under this Article.
- (4) The Commission shall have the power:
 - a. To grant a permit with such conditions attached as the Commission believes necessary to achieve the purposes of this Article.
 - b. To require that an applicant satisfy the Department that the applicant, or any parent, subsidiary, or other affiliate of the applicant or parent:
 1. Is financially qualified to carry out the activity for which the permit is required under subsection (a) of this section; and
 2. Has substantially complied with the effluent standards and limitations and waste management treatment practices applicable to any activity in which the applicant has previously engaged, and has been in substantial compliance with other federal and state laws, regulations, and rules for the protection of the environment.
 3. As used in this subdivision, the words 'affiliate,' 'parent,' and 'subsidiary' have the same meaning as in 17 Code of Federal Regulations § 240.12b-2 (1 April 1990 Edition).
 4. For a privately owned treatment works that serves 15 or more service connections or that regularly serves 25 or

more individuals, financial qualification may be demonstrated through the use of a letter of credit, insurance, surety, trust agreement, financial test, bond, or a guarantee by corporate parents or third parties who can pass the financial test. No permit shall be issued under this section for a privately owned treatment works that serves 15 or more service connections or that regularly serves 25 or more individuals, until financial qualification is established and the issuance of the permit shall be contingent on the continuance of the financial qualification for the duration of the activity for which the permit was issued.

- c. To modify or revoke any permit upon not less than 60 days' written notice to any person affected.
- d. To designate certain classes of minor activities for which a general permit may be issued, after considering:
 1. The environmental impact of the activities;
 2. How often the activities are carried out;
 3. The need for individual permit oversight; and
 4. The need for public review and comment on individual permits.
- e. To designate certain classes of minor activities for which:
 1. Performance conditions may be established by rule; and
 2. Individual or general permits are not required."

PART XII. ADDITIONAL STUDIES

Section 12.1. The Environmental Review Commission shall study the feasibility and the desirability of requiring persons who apply fertilizers or other soil-enriching nutrients onto land to be certified under a certification program that requires training and passing an examination. In conjunction with this study, the Environmental Review Commission shall consider the amounts of fertilizers and pesticides used on public roadways, at public parks and recreation areas, at commercial properties, at churches, at athletic fields and schools, near airstrips at airports, on golf courses, and on residential lawns and gardens that are maintained by commercial lawn services as well as those that are maintained by the residential dweller. During this study, the Department of Transportation shall report to the Environmental Review Commission the amounts of fertilizers and pesticides that it uses to maintain turfgrass, ornamental plantings, and trees along the State roadways. The Environmental Review Commission shall submit its legislative recommendations, if any, resulting from this study to the 1997 General Assembly, 1998 Regular Session.

Section 12.2. The Department of Agriculture shall submit the next North Carolina Turfgrass Survey to the Environmental Review Commission no later than one month after the survey is published.

Section 12.3. The Environmental Review Commission shall study the development of guidelines for best management practices for golf courses. The study shall address golf course planning, siting, design,

construction, maintenance, and operation in relation to water usage; stormwater runoff; use of fertilizers, pesticides, and herbicides; waste management; and any other matters necessary to protect water quality, public health, and the environment. The Environmental Review Commission shall submit its legislative recommendations, if any, resulting from this study to the 1997 General Assembly, 1998 Regular Session.

Section 12.4. (a) The Department of Agriculture shall develop a plan to phase out the use of anaerobic lagoons and sprayfields as primary methods of disposing of animal waste at swine farms.

(b) In developing the plan under subsection (a) of this section, the Department of Agriculture shall consider the feasibility of phasing in the use of solid waste management systems and aerobic wastewater management systems to treat and dispose of animal waste at swine farms, including, without limitation, package treatment plants, closed-loop systems, and central waste disposal facilities that serve multiple swine farms.

(c) No later than 1 May 1998, the Department of Agriculture shall present the plan developed under this section in a written report to the 1998 Regular Session of the 1997 General Assembly and to the Environmental Review Commission.

Section 12.5. The Utilities Commission, the Local Government Commission, and the Environmental Management Commission, with the assistance of other State agencies, shall jointly study issues relating to publically owned treatment works that persistently fail to comply with Article 21 of Chapter 143 of the General Statutes, rules adopted pursuant to that Article, or other federal and State laws, regulations, and rules for the protection of public health and the environment. The Commissions shall make a specific finding as to whether a State agency should assume control of a persistently noncomplying treatment works and, if so, how the State agency would assume control and operate the treatment works. The Utilities Commission, the Local Government Commission, and the Environmental Management Commission shall jointly present their findings and recommendations, including any legislative proposals, to the 1998 Regular Session of the 1997 General Assembly.

PART XIII. MISCELLANEOUS PROVISIONS; EFFECTIVE DATES

Section 13.1. G.S. 143-215(e) is repealed.

Section 13.2. The headings to the Parts of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act.

Section 13.3. If any section or provision of this act is declared unconstitutional or invalid by the courts, the unconstitutional or invalid section or provision does not affect the validity of this act as a whole or any part of this act other than the part declared to be unconstitutional or invalid.

Section 13.4. (a) G.S. 143-215.8B, as enacted by Section 8.2 of this act, becomes effective when this act becomes law, except that G.S. 143-215.8B(b) becomes effective 1 January 1998.

(b) Part IX of this act is effective retroactively as of 1 January 1997.

(c) Section 11.2 of this act becomes effective 1 January 1998.

(d) Except as otherwise provided, each section of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 26th day of August, 1997.

Became law upon approval of the Governor at 1:45 p.m. on the 27th day of August, 1997.

H.B. 949

CHAPTER 459

AN ACT TO IMPROVE CHILD PROTECTION BY ALLOWING DISCLOSURE OF CERTAIN RECORDS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 7A of the General Statutes is amended by adding the following new section to read:

"§ 7A-675.1. Disclosure in child fatality or near fatality cases.

(a) The following definitions apply in this section:

- (1) 'Child fatality' means the death of a child from suspected abuse, neglect, or maltreatment.
- (2) 'Near fatality' means a case in which a physician determines that a child is in serious or critical condition as the result of sickness or injury caused by suspected abuse, neglect, or maltreatment.
- (3) 'Public agency' means any agency of State government or its subdivisions as defined in G.S. 132-1(a).
- (4) 'Findings and information' means a written summary, as allowed by subsections (c) through (f) of this section, of actions taken or services rendered by a public agency following receipt of information that a child might be in need of protection. The written summary shall include any of the following information the agency is able to provide:
 - a. The dates, outcomes, and results of any actions taken or services rendered.
 - b. The results of any review by the State Child Fatality Prevention Team, a local child fatality prevention team, a local community child protection team, the Child Fatality Task Force, or any public agency.
 - c. Confirmation of the receipt of all reports, accepted or not accepted by the county department of social services, for investigation of suspected child abuse, neglect, or maltreatment, including confirmation that investigations were conducted, the results of the investigations, a description of the conduct of the most recent investigation and the services rendered, and a statement of basis for the department's decision.

(b) Notwithstanding any other provision of law and subject to the provisions of subsections (c) through (f) of this section, a public agency shall disclose to the public, upon request, the findings and information related to a child fatality or near fatality if:

- (1) A person is criminally charged with having caused the child fatality or near fatality; or
- (2) The district attorney has certified that a person would be charged with having caused the child fatality or near fatality but for that person's prior death.

(c) Nothing herein shall be deemed to authorize access to the confidential records in the custody of a public agency, or the disclosure to the public of the substance or content of any psychiatric, psychological, or therapeutic evaluations or like materials or information pertaining to the child or the child's family unless directly related to the cause of the child fatality or near fatality, or the disclosure of information that would reveal the identities of persons who provided information related to the suspected abuse, neglect, or maltreatment of the child.

(d) Within five working days from the receipt of a request for findings and information related to a child fatality or near fatality, a public agency shall consult with the appropriate district attorney and provide the findings and information unless the agency has a reasonable belief that release of the information:

- (1) Is not authorized by subsections (a) and (b) of this section;
 - (2) Is likely to cause mental or physical harm or danger to a minor child residing in the deceased or injured child's household;
 - (3) Is likely to jeopardize the State's ability to prosecute the defendant;
 - (4) Is likely to jeopardize the defendant's right to a fair trial;
 - (5) Is likely to undermine an ongoing or future criminal investigation;
- or
- (6) Is not authorized by federal law and regulations.

(e) Any person whose request is denied may apply to the appropriate superior court for an order compelling disclosure of the findings and information of the public agency. The application shall set forth, with reasonable particularity, factors supporting the application. The superior court shall have jurisdiction to issue such orders. Actions brought pursuant to this section shall be set down for immediate hearing, and subsequent proceedings in such actions shall be accorded priority by the appellate courts. After the court has reviewed the specific findings and information, in camera, the court shall issue an order compelling disclosure unless the court finds that one or more of the circumstances in subsection (d) of this section exist.

(f) Access to criminal investigative reports and criminal intelligence information of public law enforcement agencies, and confidential information in the possession of the State Child Fatality Prevention Team, the local teams, and the Child Fatality Task Force, shall be governed by G.S. 132-1.4 and G.S. 143-578 respectively. Nothing herein shall be deemed to require the disclosure or release of any information in the possession of a district attorney.

(g) Any public agency or its employees acting in good faith in disclosing or declining to disclose information pursuant to this section shall be immune from any criminal or civil liability that might otherwise be incurred or imposed for such action.

(h) Nothing herein shall be deemed to narrow or limit the definition of 'public records' as set forth in G.S. 132-1(a)."

Section 2. G.S. 7A-675(h) reads as rewritten:

"(h) Nothing in this section shall preclude the necessary sharing of information among authorized agencies. The chief district court judge in each district shall designate by standing order certain agencies in the district as 'agencies authorized to share information'. Agencies so designated shall share with one another, upon request, information that is in their possession that is relevant to any case in which a petition is filed alleging that a juvenile is abused, neglected, or dependent, and shall continue to do so until the juvenile is no longer subject to the juvenile jurisdiction of the court. Agencies that may be designated as 'agencies authorized to share information' include local mental health facilities, local health departments, local departments of social services, local law enforcement agencies, local school administrative units, the district's district attorney's office, the Division of Juvenile Services of the Administrative Office of the Courts, and the Office of Guardian ad Litem Services of the Administrative Office of the Courts. Any information shared among agencies pursuant to this subsection shall remain confidential, shall be withheld from public inspection, and shall be used only for the protection of the juvenile. Nothing in this section or any other provision of law shall preclude any other necessary sharing of information among agencies. Nothing herein shall be deemed to require the disclosure or release of any information in the possession of a district attorney."

Section 3. Funds appropriated in Senate Bill 352, 5th edition, to the Department of Human Resources, Division of Social Services, for child welfare system improvements shall be used to implement the provisions of this act.

Section 4. Sections 1 and 2 of this act become effective October 1, 1997. The remainder of this act is effective upon becoming law.

In the General Assembly read three times and ratified this the 18th day of August, 1997.

Became law upon approval of the Governor at 6:00 p.m. on the 29th day of August, 1997.

S.B. 713

CHAPTER 460

AN ACT TO REPEAL THE AUTHORIZATION OF SUPPLEMENTAL RETIREMENT BENEFITS FOR FIREMEN IN THE CITY OF RALEIGH.

The General Assembly of North Carolina enacts:

Section 1. Chapter 421 of the 1969 Session Laws, as amended by Chapter 504 of the 1975 Session Laws, Chapter 328 of the 1979 Session Laws, and Chapter 917 of the 1989 Session Laws, is repealed.

Section 2. All funds held by the Trustees of the City of Raleigh Firemen's Supplemental Retirement Fund are transferred to the City of Raleigh Firemen's Relief Fund to be held and administered as provided in Article 84 of Chapter 58 of the General Statutes of North Carolina.

Section 3. This act becomes effective July 1, 1997.

In the General Assembly read three times and ratified this the 18th day of August, 1997.

Became law upon approval of the Governor at 6:01 p.m. on the 29th day of August, 1997.

S.B. 426

CHAPTER 461

AN ACT TO AUTHORIZE SPECIAL REGISTRATION LICENSE PLATES ON CERTAIN COMMERCIAL MOTOR VEHICLES, TO PROVIDE SPECIAL REGISTRATION LICENSE PLATES FOR MAGISTRATES, TO ADVANCE THE DATE FOR ISSUANCE OF SPECIAL REGISTRATION LICENSE PLATES FOR SHERIFFS, AND TO PLACE A MORATORIUM ON THE CREATION OF ANY MORE SPECIAL LICENSE PLATES UNTIL THE LEGISLATIVE RESEARCH COMMISSION HAS COMPLETED ITS STUDY OF SPECIAL LICENSE PLATES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-63(b), as amended by S.L. 1997-36, reads as rewritten:

"(b) Every license plate shall have displayed upon it the registration number assigned to the vehicle for which it is issued, the name of the State of North Carolina, which may be abbreviated, and the year number for which it is issued or the date of ~~expiration, expiration, and, if the A plate is~~ issued for a commercial vehicle, as defined in G.S. 20-4.2(1), must bear the word 'commercial,' designating 'commercial vehicle.' ~~The Division may not issue a plate bearing the word 'commercial' for a trailer, or a vehicle unless the plate is a special registration plate authorized in G.S. 20-79.4 or the commercial vehicle is a trailer or is licensed for 6,000 pounds or less.~~

A registration plate issued by the Division for a private passenger vehicle or for a private hauler vehicle licensed for 6,000 pounds or less shall be a 'First in Flight' plate. A 'First in Flight' plate shall have the words 'First in Flight' printed at the top of the plate above all other letters and numerals. The background of the plate shall depict the Wright Brothers biplane flying over Kitty Hawk Beach, with the plane flying slightly upward and to the right."

Section 2. G.S. 20-79.4(a) reads as rewritten:

"(a) General. -- Upon application and payment of the required registration fees, a person may obtain from the Division a special registration plate for a motor vehicle registered in that person's name if the person qualifies for the registration plate. A special registration plate, ~~with the exception of a personalized registration plate,~~ plate may not be issued for a vehicle registered under the International Registration Plan. Plan or for a commercial truck. A special registration plate may be issued for a commercial vehicle that is not registered under the International Registration Plan. A holder of a special registration plate who becomes ineligible for the plate, for whatever reason, must return the special plate within 30 days."

Section 3. G.S. 20-79.4(b) is amended by adding a new subdivision to read:

"(14a) Magistrate. -- Issuable to a North Carolina magistrate. The plate shall bear the letters 'MJ' followed by a number indicating the district court district the magistrate serves, then by a hyphen, and then by a number indicating the seniority of the magistrate. The Division shall use the number '9' to designate District Court Districts 9 and 9B."

Section 4. Section 2 of S.L. 1997-158 reads as rewritten:

"Section 2. This act becomes effective December 1, 1997, is effective when it becomes law."

Section 5. The General Assembly finds that the number of special license plates has substantially increased since 1990. The proliferation of new special license plates raises issues about the types of plates the State may issue and the amount and distribution of funds derived from the plates. For this reason, House Bill 9 authorizes the Legislative Research Commission to study the number and types of special registration plates issued by the Division of Motor Vehicles and the amount and distribution of funds derived from the issuance of those plates. The Commission will report the results of this study, including any legislative recommendations, to the 1998 Session of the 1997 General Assembly. It is the intent and purpose of this section to assure that the General Assembly will not enact legislation authorizing the issuance of any more special license plates until the completion of this study.

Section 6. Sections 1 and 2 of this act become effective January 1, 1998, and apply to registration plates issued for periods beginning on or after that date. Section 5 of this act becomes effective September 1, 1997. The remaining sections of this act are effective when this act becomes law.

In the General Assembly read three times and ratified this the 21st day of August, 1997.

Became law upon approval of the Governor at 4:00 p.m. on the 1st day of September, 1997.

S.B. 438

CHAPTER 462

AN ACT TO AMEND THE ENFORCEMENT PROCEDURES RELATED TO THE REGISTRATION OF SECURITIES AND TO INVESTMENT ADVISERS AND TO ESTABLISH THE CONFIDENTIALITY OF RECORDS RELATING TO CRIMINAL INVESTIGATIONS AND ENFORCEMENT PROCEEDINGS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 78A-39(a)(2) reads as rewritten:

"(2) That the applicant or registrant or, in the case of a dealer, any partner, officer, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the dealer:

a. Has filed an application for registration which as of its effective date, or as of any date after filing in the case of an

- order denying effectiveness, was incomplete in any material respect or contained any statement which was, in light of the circumstances under which it was made, false or misleading with respect to any material fact; or
- b. Has willfully violated or willfully failed to comply with any provision of this Chapter or a predecessor law or any rule or order under this Chapter or a predecessor law or any provision of the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisors Act of 1940, or the Commodity Exchange Act; or
 - c. Has been convicted, within the past 10 years, of any misdemeanor involving a security or any aspect of the securities business, or any felony; or
 - d. Is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the securities business; or
 - e. Is the subject of an order of the Administrator denying, suspending, or revoking registration as a dealer or salesman; or
 - f. Is the subject of an order entered within the past five years by the securities administrator of any state or by the Securities and Exchange Commission denying or revoking registration as a dealer or salesman, or the substantial equivalent of those terms as defined in this Chapter, or is the subject of an a final order of the Securities and Exchange Commission suspending or expelling him from a national securities exchange or national securities association registered under the Securities Exchange Act of 1934, or is the subject of a United States post office fraud order; but (i) the Administrator may not institute a revocation or suspension proceeding under subdivision (2)f of subsection (a) more than one year from the date of the order relied on, and (ii) he the Administrator may not enter an order under subdivision (2)f of subsection (a) on the basis of an order under another state act unless that order was based on facts which would currently constitute a ground for an order under this section; or
 - g. Has engaged in dishonest or unethical practices in the securities business; or
 - h. Is insolvent, either in the sense that his liabilities exceed his assets or in the sense that he cannot meet his obligations as they mature; but the Administrator may not enter an order against a dealer under this paragraph without a finding of insolvency as to the dealer; or
 - i. Is not qualified on the basis of such factors as training, experience, and knowledge of the securities business, except as otherwise provided in subsection (b)."

Section 2. G.S. 78A-39(c) reads as rewritten:

"(c) The Administrator may by order summarily postpone or suspend registration pending final determination of any proceeding under this section. Upon the entry of the order, the Administrator shall promptly notify the applicant or registrant, as well as the employer or prospective employer if the applicant or registrant is a salesman, that it has been entered and of the reasons therefor and that within 15 days after the receipt of a written request the matter will be set down for hearing. If no hearing is requested request for a hearing, other responsive pleading, or submission is received by the Administrator within 30 business days of receipt of service of notice of the order upon the applicant or registrant and none no hearing is ordered by the Administrator, the order will shall become final and remain in effect until unless it is modified or vacated by the Administrator. If a hearing is requested or ordered, the Administrator, after notice of and opportunity for hearing, may modify or vacate the order or extend it until final determination."

Section 3. G.S. 78A-46(a)(1) reads as rewritten:

"(1) May make ~~such public or private investigations~~ any investigation within or outside of this State as ~~he the Administrator~~ deems necessary to determine whether any person has violated or is about to violate any provision of this Chapter or any rule or order hereunder, or to aid in the enforcement of this Chapter or in the prescribing of rules and forms hereunder."

Section 4. G.S. 78A-47(b)(2) reads as rewritten:

"(2) If the Administrator makes written findings of fact that the public interest will be irreparably harmed by delay in issuing an order under G.S. 78A-47(b)(1), the Administrator may issue a temporary cease and desist order. Upon the entry of a temporary cease and desist order, the Administrator shall promptly notify in writing the person subject to the order that such order has been entered, the reasons therefor, and that within 20 days after the receipt of a written request from such person the matter shall be set down for hearing to determine whether or not the order shall become permanent and final. If no hearing is requested request for a hearing, other responsive pleading, or submission is received by the Administrator within 30 business days of receipt of service of notice of the order upon the person subject to the order and none no hearing is ordered by the Administrator, the order shall become final and remain in effect until unless it is modified or vacated by the Administrator. If a hearing is requested or ordered, the Administrator, after giving notice of an opportunity for a hearing to the person subject to the order, shall by written findings of fact and conclusion of law, vacate, modify, or make permanent the order."

Section 5. G.S. 78A-50 reads as rewritten:

"§ 78A-50. *Administrative files and opinions.*

(a) A document is filed when it is received by the Administrator.

(b) The Administrator shall keep a register of all applications for registration and registration statements which are or have been effective under this Chapter and all denial, suspension, or revocation orders which

have been entered under this chapter. The register shall be open for public inspection.

(c) The information contained in or filed with any registration statement, application, or report may be made available to the public under such rules as the Administrator prescribes.

(c1) The files and records of the Administrator relating to criminal investigations and enforcement proceedings undertaken pursuant to this Chapter are subject to the provisions of G.S. 132-1.4.

(c2) The files and records of the Administrator relating to noncriminal investigations and enforcement proceedings undertaken pursuant to this Chapter shall not be subject to inspection and examination pursuant to G.S. 132-6 until the investigations and proceedings are completed and cease to be active.

(c3) Any information obtained by the Administrator from any law enforcement agency, administrative agency, or regulatory organization on a confidential or otherwise restricted basis in the course of an investigation or proceeding undertaken pursuant to this Chapter shall be confidential and exempt from G.S. 132-6 to the same extent that it is confidential in the possession of the providing agency or organization.

(d) Upon request and at such reasonable charges as ~~he~~ the administrator prescribes, the Administrator shall furnish to any person photostatic or other copies (certified under ~~his~~ the seal of office if requested) of any entry in the register or any document which is a matter of public record. In any proceeding or prosecution under this Chapter, any copy so certified is prima facie evidence of the contents of the entry or document certified.

(e) The Administrator ~~in his discretion~~ may honor requests from interested persons for interpretative opinions. When an exemption is claimed in writing, cites the section relied upon, and is considered eligible upon the showing made, a 'no action' letter will be furnished upon request and upon the payment of a fee of one hundred fifty dollars (\$150.00)."

Section 6. G.S. 78C-2 is amended by adding a new subdivision to read:

"(5) 'Person' means an individual, a corporation, a partnership, an association, a joint-stock company, a trust where the interests of the beneficiaries are evidenced by a security, an unincorporated organization, a government, or a political subdivision of a government."

Section 7. G.S. 78C-19(c) reads as rewritten:

"(c) The Administrator may by order summarily postpone or suspend registration pending final determination of any proceeding under this section. Upon the entry of the order, the Administrator shall promptly notify the applicant or registrant, as well as the employer or prospective employer if the applicant or registrant is an investment adviser representative, that it has been entered and of the reasons therefor and that within 15 days after the receipt of a written request the matter will be set down for hearing. If no hearing is requested request for a hearing, other responsive pleading, or submission is received by the Administrator within 30 business days of receipt of service of notice of the order upon the applicant or registrant and ~~none~~ no hearing is ordered by the Administrator,

the order ~~will~~ shall become final and remain in effect ~~until~~ unless it is modified or vacated by the Administrator. If a hearing is requested or ordered, the Administrator, after notice of and opportunity for hearing, may modify or vacate the order or extend it until final determination."

Section 8. G.S. 78C-27(a)(1) reads as rewritten:

"(1) May make ~~such public or private investigations~~ any investigation within or outside of this State as ~~he~~ the Administrator deems necessary to determine whether any person has violated or is about to violate any provision of this Chapter or any rule or order hereunder, or to aid in the enforcement of this Chapter or in the prescribing of rules and forms hereunder;"

Section 9. G.S. 78C-28(b)(2) reads as rewritten:

"(2) If the Administrator makes written findings of fact that the public interest will be irreparably harmed by delay in issuing an order under G.S. 78C-28(b)(1), the Administrator may issue a temporary cease and desist order. Upon the entry of a temporary cease and desist order, the Administrator shall promptly notify in writing the person subject to the order that such order has been entered, the reasons therefor, and that within 20 days after the receipt of a written request from such person the matter shall be set down for hearing to determine whether or not the order shall become permanent and final. If no hearing is requested request for a hearing, other responsive pleading, or submission is received by the Administrator within 30 business days of receipt of service of notice of the order upon the person subject to the order and none no hearing is ordered by the Administrator, the order shall become final and remain in effect until unless it is modified or vacated by the Administrator. If a hearing is requested or ordered, the Administrator, after giving notice of an opportunity for a hearing to the person subject to the order, shall by written findings of fact and conclusion of law, vacate, modify, or make permanent the order."

Section 10. G.S. 78C-31 reads as rewritten:

"§ 78C-31. *Administrative files and opinions.*

(a) A document is filed when it is received by the Administrator.

(b) The Administrator shall keep a register of all applications for registration which are or have been effective under this Chapter and all denial, suspension, or revocation orders or similar orders which have been entered under this chapter. The register shall be open for public inspection.

(c) The information contained in or filed with any registration, application, or report may be made available to the public under such rules as the Administrator prescribes.

(c1) The files and records of the Administrator relating to criminal investigations and enforcement proceedings undertaken pursuant to this Chapter are subject to the provisions of G.S. 132-1.4.

(c2) The files and records of the Administrator relating to noncriminal investigations and enforcement proceedings undertaken pursuant to this Chapter shall not be subject to inspection and examination pursuant to G.S.

132-6 until the investigations and proceedings are completed and cease to be active.

(c3) Any information obtained by the Administrator from any law enforcement agency, administrative agency, or regulatory organization on a confidential or otherwise restricted basis in the course of an investigation or proceeding undertaken pursuant to this Chapter shall be confidential and exempt from G.S. 132-6 to the same extent that it is confidential in the possession of the providing agency or organization.

(d) Upon request and at such reasonable charges as ~~he~~ the Administrator prescribes, the Administrator shall furnish to any person photostatic or other copies (certified under ~~his~~ the seal of office if requested) of any entry in the register or any document which is a matter of public record. In any proceeding or prosecution under this Chapter, any copy so certified is prima facie evidence of the contents of the entry or document certified.

(e) The Administrator ~~in his discretion~~ may honor requests from interested persons for interpretative opinions upon the payment of a fee of one hundred fifty dollars (\$150.00)."

Section 11. This act becomes effective October 1, 1997, and applies to administrative proceedings commenced on or after that date.

In the General Assembly read three times and ratified this the 21st day of August, 1997.

Became law upon approval of the Governor at 4:05 p.m. on the 1st day of September, 1997.

S.B. 730

CHAPTER 463

AN ACT TO AMEND THE LAW RELATING TO THE ISSUANCE OF BONDS BY INDUSTRIAL FACILITIES AND POLLUTION CONTROL FINANCING AUTHORITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 159C-6, as amended by S.L. 1997-111, reads as rewritten:

"§ 159C-6. *Bonds.*

Each authority is authorized to provide for the issuance, at one time or from time to time, of bonds of the authority for the purpose of paying all or any part of the cost of any project. The principal of, the interest on and any premium payable upon the redemption of such bonds shall be payable solely from the funds herein authorized for such payment. The bonds of each issue shall bear interest as may be determined by the Local Government Commission of North Carolina with the approval of the authority and the obligor irrespective of the limitations of G.S. 24-1.1, as amended, and successor provisions. The bonds of each issue shall be dated, shall mature at such time or times not exceeding 30 years from 35 years after the date of their issuance, and may be made redeemable before maturity at such price or prices and under such terms and conditions, as may be fixed by the authority prior to the issuance of the bonds. The authority shall determine the form and the manner of execution of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or

denominations of the bonds and the place or places of payment of principal and interest. In case any officer whose signature or a facsimile of whose signature ~~shall appear~~ appears on any bonds or coupons ~~shall cease~~ ceases to be ~~an~~ that officer before the delivery of the bonds, the signature or the facsimile shall nevertheless be valid and sufficient for all purposes the same as if the person had remained in office until such delivery. The authority may also provide for the authentication of the bonds by a trustee or fiscal agent. The bonds may be issued in coupon or in fully registered form, or both, as the authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest, and for the interchange of registered and coupon bonds.

The proceeds of the bonds of each issue shall be used solely for the payment of the cost of the project or projects, or a portion thereof, for which the bonds were issued, and shall be disbursed in such manner and under such restrictions, if any, as the authority may provide in the financing agreement and the security document. If the proceeds of the bonds of any issue, by reason of increased construction costs or error in estimates or otherwise, ~~shall be~~ are less than such cost, additional bonds may in like manner be issued to provide the amount of the deficiency.

The proceeds of bonds shall not be used to refinance the cost of a project. For the purposes of this section, a cost of a project is considered refinanced if both of the following conditions are met:

- (1) The cost is initially paid from sources other than bond proceeds, and the original expenditure is to be reimbursed from bond proceeds.
- (2) The original expenditure was paid more than 60 days before the authority took some action indicating its intent that the expenditure would be financed or reimbursed from bond proceeds.

However, preliminary expenditures that are incurred prior to the commencement of the acquisition, construction, or rehabilitation of a project, such as architectural costs, engineering costs, surveying costs, soil testing costs, bond issuance costs, and other similar costs, may be reimbursed from bond proceeds even if these costs are incurred or paid more than 60 days prior to the authority's action. This exception that allows preliminary expenditures to be reimbursed from bond proceeds, regardless of whether or not they are incurred or paid within 60 days of the authority's action, does not include costs that are incurred incident to the commencement of the construction of a project, such as expenditures for land acquisition and site preparation. In any event, an expenditure originally paid before the authority took some action indicating its intent that the expenditures would be financed or reimbursed from bond proceeds may only be reimbursed from bond proceeds if the authority finds that reimbursing those costs from bond proceeds will promote the purposes of this Chapter.

The authority may issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. The authority may also provide

for the replacement of any bonds ~~which shall~~ that become mutilated or ~~shall be~~ are destroyed or lost.

Bonds may be issued under the provisions of this Chapter without obtaining, except as otherwise expressly provided in this Chapter, the consent of the State or of any political subdivision or of any agency of ~~either thereof, either,~~ and without any other proceedings or the happening of any conditions or things other than those proceedings, conditions or things which are specifically required by this Chapter and the provisions of the financing agreement and security document authorizing the issuance of such bonds and securing the same."

Section 2. G.S. 159C-7 reads as rewritten:

"§ 159C-7. Approval of project—project by Secretary of Commerce.

(a) Approval Required. -- No bonds may be issued by an authority unless the project for which ~~the issuance thereof~~ their issuance is proposed is first approved by the Secretary of Commerce. The authority shall file an application for approval of its proposed project with the Secretary of Commerce, and shall notify the Local Government Commission of such filing.

(b) Findings. -- The Secretary shall not approve any proposed project unless ~~he shall make~~ the Secretary makes all of the following, applicable findings:

- (1) In the case of a proposed industrial project,
 - a. That the operator of the proposed project pays, or has agreed to pay thereafter, an average weekly manufacturing wage that (i) ~~which~~ is above the average weekly manufacturing wage paid in the county, or (ii) ~~which~~ is not less than ten percent (10%) above the average weekly manufacturing wage paid in the State, and
 - b. That the proposed project will not have a materially adverse effect on the ~~environment; environment.~~
- (2) In the case of a proposed pollution control project, that such project will have a materially favorable impact on the environment or will prevent or diminish materially the impact of pollution which would otherwise ~~occur; and occur.~~
- (2a) In the case of a hazardous waste facility or low-level radioactive waste facility ~~which that~~ is used as a reduction, recovery or recycling facility, ~~that~~ such project will further the waste management goals of North Carolina and will not have an adverse effect upon public health or a significant adverse effect on the environment.
- (3) In any case (whether the proposed project is an industrial or a pollution control project), except a pollution control project for a public utility,
 - a. That the jobs to be generated or saved, directly or indirectly, by the proposed project will be large enough in number to have a measurable impact on the area immediately surrounding the proposed project and will be commensurate with the size and cost of the proposed project,

- b. That the proposed operator of the proposed project has demonstrated or can demonstrate the capability to operate such project, and
- c. That the financing of such project by the authority will not cause or result in the abandonment of an existing industrial or manufacturing facility of the proposed operator or an affiliate elsewhere within the State unless the facility is to be abandoned because of obsolescence, lack of available labor in the area, or site limitations.

If the initial proposed operator of a project is not expected to be the operator for the term of the bonds proposed to be issued, the Secretary may make the findings required pursuant to subdivisions (1)a. and (3)b. only with respect to the initial operator. The initial operator shall be identified in the application for approval of the proposed project. ~~In no case shall the Secretary of Commerce~~

(c) Public Hearing. -- The Secretary of Commerce shall not approve any proposed project pursuant to this section unless the governing body of the county in which the project is located has first conducted a public hearing and, at or after the public hearing, approved in principle the issuance of bonds under this Chapter for the purpose of paying all or part of the cost of the proposed project. Notice of the public hearing shall be published at least once in at least one newspaper of general circulation in the county not less than 14 days before the public hearing. The notice shall describe generally the bonds proposed to be issued and the proposed project, including its general location, and any other information the governing body considers appropriate or the Secretary of Commerce prescribes for the purpose of providing the Secretary with the views of the community. The notice shall also state that following the public hearing the authority intends to file an application for approval of the proposed project with the Secretary of Commerce.

(d) Certificate of Department of Environment, Health, and Natural Resources. -- The Secretary of Commerce shall not make the findings required by subdivisions (1)b and (2) of this section unless ~~he shall have the~~ Secretary has first received a certification from the Department of Environment, Health, and Natural Resources that, in the case of a proposed industrial project, the proposed project will not have a materially adverse effect on the environment and that, in the case of a proposed pollution control project, the proposed project will have a materially favorable impact on the environment or will prevent or diminish materially the impact of pollution which would otherwise occur. ~~In no case shall the~~ The Secretary of Commerce shall not make the findings required by subdivision (2a) unless ~~he shall have the~~ Secretary has first received a certification from the Department of Environment, Health, and Natural Resources that the proposed project is environmentally sound, will not have an adverse effect on public health and will further the waste management goals of North Carolina. The Secretary of Commerce shall deliver a copy of the application to the Department of Environment, Health, and Natural Resources. The Department of Environment, Health, and Natural Resources shall provide each certification to the Secretary of Commerce within seven days after the

applicant satisfactorily demonstrates to it that all permits, including environmental permits, necessary for the construction of the proposed project have been obtained, unless the authority consents to a longer period of time. In any case where the Secretary shall make

(e) Waiver of Wage Requirement. -- If the Secretary of Commerce has made all of the required findings respecting a proposed industrial project except that prescribed in subparagraph (1)a of this section, the Secretary may, in his the Secretary's discretion, approve the proposed project if he shall have the Secretary has received (i) a resolution of the governing body of the county requesting that the proposed project be approved notwithstanding that the operator will not pay an average weekly manufacturing wage above the average weekly manufacturing wage in the county and (ii) a letter from an appropriate State official, selected by the Secretary, to the effect that unemployment in the county is especially severe.

(f) Rules. -- To facilitate his review of each proposed project, the Secretary may require the authority to obtain and submit such data and information about such project as the Secretary may prescribe. In addition, the Secretary may, in his discretion, request the authority to hold a public hearing on the proposed project for the purpose of providing the Secretary directly with the views of the community to be affected. The Secretary may also prescribe such forms and such rules and regulations as he shall deem as the Secretary considers reasonably necessary to implement the provisions of this section.

(g) Certificate of Approval. -- If the Secretary approves the proposed project, he the Secretary shall prepare a certificate of approval evidencing such approval and setting forth his the findings and shall cause said the certificate of approval to be published in a newspaper of general circulation within the county. Any such approval shall be reviewable as provided in Article 4 of Chapter 150B of the General Statutes of North Carolina only by an action filed, within 30 days after notice of such findings and approval shall have been so published, in the Superior Court of Wake County. Such The superior court is hereby vested with jurisdiction to hear such action, but if no such action is filed within the 30 days herein prescribed, the validity of such approval shall be conclusively presumed, and no court shall have authority to inquire into such approval. Copies of the certificate of approval of the proposed project will be given to the authority, the governing body of the county and the Secretary of the Local Government Commission.

Such The certificate of approval shall become effective immediately following the expiration of such the 30-day period or the expiration of any appeal period after a final determination by any court of any action timely filed pursuant to this section. Such The certificate shall expire one year after its date unless extended by the Secretary who shall not extend such the certificate unless he shall again approve the Secretary again approves the proposed project as provided in this section. If bonds are issued within that year pursuant to the authorization of this Chapter to pay all or part of the costs of the project, however, the certificate shall expire three years after the date of the first issuance of the bonds."

Section 3. G.S. 159C-10 reads as rewritten:

"§ 159C-10. Location of projects.

Except as provided in this section, any project or projects of an authority shall be located within the boundaries of the county for which the authority was created. A portion or portions of any project including, but not limited to, any real or personal property or improvements necessary or convenient for the construction, maintenance, and operation of the project, may be located in a county or counties other than the county in which the principal part of the project is located so long as the additional portion or portions constitute functionally appurtenant or incidental facilities and the governing body of each other county in which the additional portion or portions of the project is or are located approves the project. In addition, if a project or a group of related projects is located in two or more adjacent counties, the authority created for any one of the counties may issue bonds as provided in G.S. 159C-6 for the purpose of paying all or any part of the cost of the project or group of related projects if the following conditions are met:

- (1) The board of commissioners of each county in which the project or group of related projects is located has consented.
- (2) The governing body of the authority created for each county in which the project or group of related projects is located has consented.
- (3) The bonds are issued in compliance with all other provisions of this Chapter."

Section 4. G.S. 159C-19(a) reads as rewritten:

"(a) Each authority is hereby authorized to provide by resolution for the issuance of refunding bonds of the authority for the purpose of refunding any bonds then outstanding ~~which shall that~~ have been issued under the provisions of this Chapter, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, if deemed advisable by the authority, for either or both of the following additional purposes:

- (1) Constructing improvements, additions, extensions or enlargements of the project or projects in connection with which the bonds to be refunded ~~shall~~ have been issued, and
- (2) Paying all or any part of the cost of any additional project or projects.

The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the authority in respect to the same shall be governed by the provisions of this Chapter ~~which that~~ relate to the issuance of bonds, insofar as such provisions may be appropriate ~~therefor, therefor, including that any such bonds may have a single maturity within the limit prescribed by G.S. 159C-6.~~

The approvals required by G.S. 159C-7 and 159C-8 shall be obtained prior to the issuance of any refunding bonds; provided, however, that in the case where the refunding bonds of all or a portion of an issue are to be issued solely for the purpose of refunding outstanding bonds issued under this Chapter, the approval required by G.S. 159C-7 shall not be required as to the project financed with the bonds to be refunded."

Section 5. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 21st day of August, 1997.

Became law upon approval of the Governor at 4:08 p.m. on the 1st day of September, 1997.

H.B. 231

CHAPTER 464

AN ACT TO PROVIDE LIMITED IMMUNITY FOR PHYSICIANS AND PSYCHOLOGISTS PROVIDING MEDICAL INFORMATION ON DRIVERS TO THE COMMISSIONER OF MOTOR VEHICLES IMPLEMENTING THE RECOMMENDATIONS OF THE DRIVERS MEDICAL EVALUATION PROGRAM STUDY COMMISSION AND FOR PHYSICIANS PROVIDING MEDICAL INFORMATION AND TESTIMONY REGARDING PILOTS TO PILOTS' LICENSING AND CERTIFICATION AGENCIES.

The General Assembly of North Carolina enacts:

Section 1. Article 2 of Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-9.1. Physicians and psychologists providing medical information on drivers with physical and mental disabilities.

(a) Notwithstanding G.S. 8-53 for physicians and G.S. 8-53.3 for psychologists, or any other law relating to confidentiality of communications between physicians or psychologists and their patients, a physician or a psychologist duly licensed in the State of North Carolina may disclose after consultation with the patient to the Commissioner information about a patient who has a mental or physical disability that the physician or psychologist believes may affect the patient's ability to safely operate a motor vehicle. This information shall be limited to the patient's name, address, date of birth, and diagnosis.

(b) The information provided to the Commissioner pursuant to subsection (a) of this section shall be confidential and shall be used only for the purpose of determining the qualifications of the patient to operate a motor vehicle.

(c) A physician or psychologist disclosing or not disclosing information pursuant to this section is immune from any civil or criminal liability that might otherwise be incurred or imposed based on the disclosure or lack of disclosure provided that the physician or psychologist was acting in good faith and without malice. In any proceeding involving liability, good faith and lack of malice are presumed."

Section 2. Article 1C of Chapter 90 of the General Statutes is amended by adding a new section to read:

"§ 90-21.20A. Reporting by physicians of pilots' mental or physical disabilities or infirmities.

(a) A physician who reports to a government agency responsible for pilots' licenses or certificates or a government agency responsible for air safety that a pilot or an applicant for a pilot's license or certificate suffers from or probably suffers from a physical disability or infirmity that the physician believes will or reasonably could affect the person's ability to

safely operate an aircraft shall have immunity, civil or criminal, that might otherwise be incurred or imposed as the result of making such a report.

(b) A physician who gives testimony about a pilot's or an applicant's mental or physical disability or infirmity in any administrative hearing or other proceeding held to consider the issuance, renewal, revocation, or suspension of a pilot's license or certificate shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed as the result of such testimony."

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 21st day of August, 1997.

Became law upon approval of the Governor at 4:10 p.m. on the 1st day of September, 1997.

H.B. 1012

CHAPTER 465

AN ACT TO PROTECT SPORT SHOOTING RANGES AND THEIR OWNERS, OPERATORS, AND USERS FROM PUNITIVE RESTRICTIONS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 14 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 53C.

"Sport Shooting Range Protection Act of 1997.

"§ 14-409.45. Definitions.

The following definitions apply in this Article:

- (1) Person. -- An individual, proprietorship, partnership, corporation, club, or other legal entity.
- (2) Sport shooting range or range. -- An area designed and operated for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, or any other similar sport shooting.
- (3) Substantial change in use. -- The current primary use of the range no longer represents the activity previously engaged in at the range.

"§ 14-409.46. Sport shooting range protection.

(a) Notwithstanding any other provision of law, a person who owns, operates, or uses a sport shooting range in this State shall not be subject to civil liability or criminal prosecution in any matter relating to noise or noise pollution resulting from the operation or use of the range if the range was in existence at least three years prior to the effective date of this Article and the range was in compliance with any noise control laws or ordinances that applied to the range and its operation at the time the range began operation.

(b) A person who owns, operates, or uses a sport shooting range is not subject to an action for nuisance on the basis of noise or noise pollution, and a State court shall not enjoin the use or operation of a range on the basis of noise or noise pollution, if the range was in existence at least three years prior to the effective date of this Article and the range was in

compliance with any noise control laws or ordinances that applied to the range and its operation at the time the range began operation.

(c) Rules adopted by any State department or agency for limiting levels of noise in terms of decibel level that may occur in the outdoor atmosphere shall not apply to a sport shooting range exempted from liability under this Article.

(d) A person who acquires title to real property adversely affected by the use of property with a permanently located and improved sport shooting range constructed and initially operated prior to the time the person acquires title shall not maintain a nuisance action on the basis of noise or noise pollution against the person who owns the range to restrain, enjoin, or impede the use of the range. If there is a substantial change in use of the range after the person acquires title, the person may maintain a nuisance action if the action is brought within one year of the date of a substantial change in use. This section does not prohibit actions for negligence or recklessness in the operation of the range or by a person using the range.

(e) A sport shooting range that is operated and is not in violation of existing law at the time of the enactment of an ordinance and was in existence at least three years prior to the effective date of this Article, shall be permitted to continue in operation even if the operation of the sport shooting range at a later date does not conform to the new ordinance or an amendment to an existing ordinance, provided there has been no substantial change in use.

"§ 14-409.47. Application of Article.

Except as otherwise provided in this Article, this Article does not prohibit a local government from regulating the location and construction of a sport shooting range after the effective date of this Article."

Section 2. This act is effective when it becomes law but shall not apply to pending litigation.

In the General Assembly read three times and ratified this the 21st day of August, 1997.

Became law upon approval of the Governor at 4:11 p.m. on the 1st day of September, 1997.

H.B. 1096

CHAPTER 466

AN ACT TO ADJUST CERTAIN STATUTES AFFECTING THE TRUCKING INDUSTRY TO ENCOURAGE THE GROWTH OF THAT INDUSTRY THROUGH INCREASED TRUCK REGISTRATIONS IN THIS STATE; TO PROVIDE CONSUMER PROTECTION PROVISIONS; AND TO PROVIDE FOR A STUDY OF CERTAIN TRUCKING-RELATED PROVISIONS BY THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-88 is amended by adding a new subsection to read:

"(1) The Division shall issue permanent truck and truck-tractor plates to Class A and Class B Motor Vehicles and shall include the word 'permanent'

on the plate. The permanent registration plates issued pursuant to this section shall be subject to annual registration fees set in this section. The Division shall issue the necessary rules providing for the recall, transfer, exchange, or cancellation of permanent plates issued pursuant to this section."

Section 2. G.S. 20-118(c)(5) reads as rewritten:

- "(5) The light-traffic road limitations provided for pursuant to subdivision (b)(4) of this section do not apply to a vehicle while that vehicle is transporting only the following from its point of origin on a light-traffic road to the nearest highway that is not a light-traffic road:
- a. Processed or unprocessed seafood transported from boats or any other point of origin to a processing plant or a point of further distribution.
 - b. Meats or agricultural crop products originating transported from a farm to first market.
 - c. ~~Unprocessed forest~~ Forest products originating and transported from a farm or from woodlands to first market, market without interruption or delay for further packaging or processing after initiating transport.
 - d. Livestock or poultry transported from their point of origin to first market.
 - e. Livestock by-products or poultry by-products transported from their point of origin to a rendering plant.
 - f. Recyclable material transported from its point of origin to a scrap-processing facility for processing. As used in this subpart, the terms 'recyclable' and 'processing' have the same meaning as in G.S. 130A-290(a).
 - g. Garbage collected by the vehicle from residences or garbage dumpsters if the vehicle is fully enclosed and is designed specifically for collecting, compacting, and hauling garbage from residences or from garbage dumpsters. As used in this subpart, the term 'garbage' does not include hazardous waste as defined in G.S. 130A-290(a), spent nuclear fuel regulated under G.S. 20-167.1, low-level radioactive waste as defined in G.S. 104E-5, or radioactive material as defined in G.S. 104E-5.
 - h. Treated sludge collected from a wastewater treatment facility."

Section 3. G.S. 20-382.2 reads as rewritten:

"§ 20-382.2. *Penalty for failure to comply with registration or insurance verification requirements.*

(a) Acts. -- A motor carrier who does any of the following is subject to a civil penalty of ~~seventy-five dollars (\$75.00); one thousand dollars (\$1,000):~~

- (1) Operates a for-hire motor vehicle in this State without registering its operations, as required by this Part.
- (2) Operates a for-hire motor vehicle in interstate commerce in this State that does not carry a copy of either an insurance registration receipt issued to the motor carrier or a cab card with an

identification stamp issued for the vehicle, as required by G.S. 20-382.

- (3) Operates a for-hire motor vehicle in intrastate commerce in this State for which it has not verified it has insurance, as required by G.S. 20-382.1.

(b) Payment. -- When the Division finds that a for-hire motor vehicle is operated in this State in violation of the registration and insurance verification requirements of this Part, the motor vehicle may not be driven for a purpose other than to park the motor vehicle until the penalty imposed under this section is paid unless the officer that imposes the penalty determines that operation of the motor vehicle will not jeopardize collection of the penalty. A motor carrier that denies liability for a penalty imposed under this section may pay the penalty under protest and apply to the Division for a hearing.

(c) Hearing. -- Upon receiving a request for a hearing, the Commissioner ~~must~~ shall schedule a hearing within 30 days after receipt of the request. If after the hearing the Commissioner determines that the motor carrier was not liable for the penalty, the amount collected ~~must~~ shall be refunded. If after the hearing the Commissioner determines that the motor carrier was liable for the penalty, the motor carrier may bring an action in the Superior Court of Wake County against the Division for refund of the penalty. A court of this State may not issue a restraining order or an injunction to restrain or enjoin the collection of the penalty or to permit the operation of the vehicle without payment of the penalty.

(d) Proceeds. -- A penalty imposed under this section is payable to the Division. Penalties collected under this section shall be credited to the Highway Fund as nontax revenue."

Section 4. The Division of Motor Vehicles shall study the feasibility of establishing a staggered registration system for commercial motor vehicles under the International Registration Plan (IRP). The registration plan shall be coordinated with other states which currently stagger IRP registrations to eliminate, insofar as possible, multiple application dates for the same carrier. The registration plan shall provide for a smooth transition to the staggered system providing for credits and partial fees, as needed. The Division shall report the results of this study along with any legislation to implement the staggered registration system to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division by April 1, 1998.

Section 5. The Joint Legislative Transportation Oversight Committee and the Revenue Laws Study Committee shall study the following issues encouraging the growth of the trucking industry in North Carolina through increased truck registrations:

- (1) The feasibility of removing the highway use tax on vehicles with a gross weight rating of more than 26,000 pounds;
- (2) The replacement of the revenue from the removal of the highway use tax studied in subdivision (1) of this section by an increase in registration fees for the same vehicles by ten cents (10¢) per one hundred pounds of registered weight; and

- (3) Eliminate the stacking of overweight penalties by restricting the penalties so that they do not exceed the highest axle-group weight that exceeds the allowable limits rather than assessing separate penalties for each axle-group and stacking those penalties for the same weight violations.

The Joint Legislative Transportation Oversight Committee and the Revenue Laws Study Committee may make an interim report of the study authorized by this section to the 1998 Session of the General Assembly and shall make a final report to the 1999 Session of the General Assembly.

Section 6. Sections 4 and 5 of this act are effective when this act becomes law. Sections 2 and 3 of this act become effective October 1, 1997. Section 1 of this act becomes effective January 1, 1999.

In the General Assembly read three times and ratified this the 21st day of August, 1997.

Became law upon approval of the Governor at 4:25 p.m. on the 1st day of September, 1997.

H.B. 1108

CHAPTER 467

AN ACT TO ALLOW THE ALCOHOLIC BEVERAGE CONTROL COMMISSION TO ISSUE PERMITS FOR "BREW ON PREMISES" BUSINESSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18B-307 reads as rewritten:

"§ 18B-307. *Manufacturing offenses.*

(a) Offenses. -- It shall be unlawful for any person, except as authorized by this Chapter, to:

(1) Sell or possess equipment or ingredients intended for use in the manufacture of any alcoholic beverage; beverage, except equipment and ingredients provided under a Brew on Premises permit; or

(2) Knowingly allow real or personal property owned or possessed by him to be used by another person for the manufacture of any alcoholic beverage. beverage, except pursuant to a Brew on Premises permit.

(b) Unlawful Manufacturing. -- Except as provided in G.S. 18B-306, it shall be unlawful for any person to manufacture any alcoholic beverage, except at an establishment with a Brew on Premises permit, without first obtaining the applicable ABC permit and revenue licenses.

(c) Second Offense of Manufacturing. -- A second offense of unlawful manufacturing of alcoholic beverage shall be a Class I felony."

Section 2. G.S. 18B-902(d), as amended by S.L. 1997-134, reads as rewritten:

"(d) Fees. -- An application for an ABC permit shall be accompanied by payment of the following application fee:

- (1) On-premises malt beverage permit -- \$200.00.
- (2) Off-premises malt beverage permit -- \$200.00.
- (3) On-premises unfortified wine permit -- \$200.00.

- (4) Off-premises unfortified wine permit -- \$200.00.
- (5) On-premises fortified wine permit -- \$200.00.
- (6) Off-premises fortified wine permit -- \$200.00.
- (7) Brown-bagging permit -- \$200.00, unless the application is for a restaurant seating less than 50, in which case the fee shall be \$100.00.
- (8) Special occasion permit -- \$200.00.
- (9) Limited special occasion permit -- \$25.00.
- (10) Mixed beverages permit -- \$750.00.
- (11) Culinary permit -- \$100.00.
- (12) Unfortified winery permit -- \$150.00.
- (13) Fortified winery permit -- \$150.00.
- (14) Limited winery permit -- \$150.00.
- (15) Brewery permit -- \$150.00.
- (16) Distillery permit -- \$150.00.
- (17) Fuel alcohol permit -- \$50.00.
- (18) Wine importer permit -- \$150.00.
- (19) Wine wholesaler permit -- \$150.00.
- (20) Malt beverage importer permit -- \$150.00.
- (21) Malt beverage wholesaler permit -- \$150.00.
- (22) Bottler permit -- \$150.00.
- (23) Salesman permit -- \$25.00.
- (24) Vendor representative permit -- \$25.00.
- (25) Nonresident malt beverage vendor permit -- \$50.00.
- (26) Nonresident wine vendor permit -- \$50.00.
- (27) Any special one-time permit under G.S. 18B-1002 -- \$25.00.
- (28) Winery special event permit -- \$100.00.
- (29) Mixed beverages catering permit -- \$100.00.
- (30) Guest room cabinet permit -- \$750.00.
- (31) Liquor importer/bottler permit -- \$250.00.
- (32) Cider and vinegar manufacturer permit -- \$100.00.
- (33) Brew on premises permit -- \$200.00."

Section 3. G.S. 18B-1001 is amended by adding a new subdivision to read:

- "(14) Brew on Premises Permit. -- A permit may be issued to a business, located in a jurisdiction where the sale of malt beverages is allowed, where individual customers who are 21 years old or older may purchase ingredients and rent the equipment, time, and space to brew malt beverages for personal use in amounts set forth in 27 C.F.R. § 25.205. The customer must do all of the following:
- a. Select a recipe and kettle.
 - b. Weigh out the proper ingredients and add them to the kettle.
 - c. Transfer the wort to the fermenter.
 - d. Add the yeast.
 - e. Place the ingredients in a fermentation room.
 - f. Filter, carbonate, and bottle the malt beverage.
- A permittee may transfer the ingredients from the fermentation room to the cold room and may assist the customer in all the

steps involved in brewing a malt beverage except adding the yeast. A malt beverage produced under this subdivision may not contain more than six percent (6%) alcohol by volume."

Section 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 21st day of August, 1997.

Became law upon approval of the Governor at 4:15 p.m. on the 1st day of September, 1997.

S.B. 299

CHAPTER 468

AN ACT TO PROVIDE LONG-TERM CARE BENEFITS FOR QUALIFIED EMPLOYEES, RETIRED EMPLOYEES, AND THEIR DEPENDENTS UNDER THE TEACHERS' AND STATE EMPLOYEES' COMPREHENSIVE MAJOR MEDICAL PLAN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 135-38(c) reads as rewritten:

"(c) The Committee shall review programs of hospital, medical and related care provided by Part 3 of this Article and programs of long-term care benefits provided by Part 4 of this Article as recommended by the Executive Administrator and Board of Trustees of the Plan. The Executive Administrator and the Board of Trustees shall provide the Committee with any information or assistance requested by the Committee in performing its duties under this Article."

Section 2. G.S. 135-39.5(22) reads as rewritten:

"(22) ~~Providing to the Industrial Commission the schedule of allowable charges under the Plan for each participating hospital and other information deemed necessary by the Commission to fulfill its duties under G.S. 97-26. Implementing and administering a program of long-term care benefits pursuant to Part 4 of this Article.~~"

Section 3. G.S. 135-39.6 reads as rewritten:

"§ 135-39.6. *Special funds created.*

(a) There are hereby established two special funds, to be known as the Public Employee Health Benefit Fund and the Health Benefit Reserve Fund. Fund for the payment of hospital and medical benefits.

All premiums, fees, charges, rebates, refunds or any other receipts including, but not limited to, earnings on investments, occurring or arising in connection with health benefits programs established by this Article, shall be deposited into the Public Employee Health Benefit Fund. Disbursements from the Fund shall include any and all amounts required to pay the benefits and administrative costs of such programs as may be determined by the Executive Administrator and Board of Trustees.

Any unencumbered balance in excess of prepaid premiums or charges in the Public Employee Health Benefit Fund at the end of each fiscal year shall be used first, to provide an actuarially determined Health Benefit Reserve Fund for incurred but unrepresented claims, second, to reduce the premiums required in providing the benefits of the health benefits programs, and third

to improve the plan, as may be provided by the General Assembly. The balance in the Health Benefits Reserve Fund may be transferred from time to time to the Public Employee Health Benefit Fund to provide for any deficiency occurring therein.

The Public Employee Health Benefit Fund and the Health Benefit Reserve Fund shall be deposited with the State Treasurer and invested as provided in G.S. 147-69.2 and 147-69.3.

(b) Disbursement from the Public Employee Health Benefit Fund may be made by warrant drawn on the State Treasurer by the Executive Administrator, or the Executive Administrator and Board of Trustees may by contract authorize the Claims Processor to draw the warrant.

(c) Separate and apart from the special funds authorized by subsections (a) and (b) of this section, there shall be a Public Employee Long-Term Care Benefit Fund if the long-term care benefits provided by Part 4 of this Article are administered on a self-insured basis."

Section 4. G.S. 135-39.6A reads as rewritten:

"§ 135-39.6A. *Premiums set.*

(a) The Executive Administrator and Board of Trustees shall, from time to time, establish premium rates for the Comprehensive Major Medical Plan except as they may be established by the General Assembly in the Current Operations Appropriations Act, and establish regulations for payment of the premiums. Premium rates shall be established for coverages where Medicare is the primary payer of health benefits separate and apart from the rates established for coverages where Medicare is not the primary payer of health benefits.

(b) The Executive Administrator and Board of Trustees shall establish separate premium rates for the long-term care benefits provided by Part 4 of this Article if the benefits are administered on a self-insured basis."

Section 5. G.S. 135-39.8 reads as rewritten:

"§ 135-39.8. *Rules and regulations.*

The Executive Administrator and Board of Trustees may issue rules and regulations to implement ~~Parts 2 and 3~~ 2, 3, and 4 of this Article. Rules and regulations of the Board of Trustees shall remain in effect until amended or repealed by the Executive Administrator and Board of Trustees. The Executive Administrator and Board of Trustees shall provide a written description of the rules and regulations issued under this section to all employing units, all health benefit representatives, the oversight team provided for in G.S. 135-39.3, all relevant health care providers affected by a rule or regulation, and to any other parties requesting a written description and approved by the Executive Administrator and Board of Trustees to receive a description on a timely basis."

Section 6. G.S. 135-40.7 is amended by adding a new subdivision to read:

"(19) Charges for services covered by the long-term care benefit provisions of Part 4 of this Article."

Section 7. Article 3 of Chapter 135 of the General Statutes is amended by adding a new Part to read:

"Part 4. Long-Term Care Benefits.

"§ 135-41. Undertaking.

(a) The State of North Carolina undertakes to make available an optional program of long-term care benefits for the benefit of its qualified employees, retired employees, and their dependents which will pay benefits in accordance with the terms hereof. Retired employees of the Local Governmental Employees' Retirement System pursuant to Article 3 of Chapter 128 of the General Statutes and their dependents are also eligible to be qualified for the benefits provided by this Part.

(b) The long-term care benefits provided by this Part shall be made available through the Teachers' and State Employees' Comprehensive Major Medical Plan pursuant to Articles 2 and 3 of this Chapter (hereinafter called the 'Plan') and administered by the Plan's Executive Administrator and Board of Trustees. In administering the benefits provided by this Part, the Executive Administrator and Board of Trustees shall have the same type of powers and duties that are provided under Part 3 of this Article for hospital and medical benefits. The benefits provided by this Part may be offered by the Plan on a self-insured basis, in which case a third-party claims processor shall be chosen through competitive bids in accordance with State law, or through a contract of insurance, in which case a carrier licensed to do business in North Carolina shall be selected on a competitive bid basis in accordance with State law.

(c) The benefits authorized by this Part are available only to qualified employees and retired employees who voluntarily elect to provide such benefits for themselves and their qualified dependents. Payroll deductions shall be available from employee salary and disability benefit payments and from retired employee retirement benefit payments for fully contributory premium amounts.

(d) The Executive Administrator and Board of Trustees of the Plan shall insure insofar as possible that the long-term care benefits provided by this Part shall be tax-qualified under federal law.

"§ 135-41.1. Long-term care benefits.

Long-term care benefits provided by this Part are subject to elimination periods, coinsurance provisions, and other limitations separate and apart from those provided for in Part 3 of this Article. No limitation on out-of-pocket expenses are provided for the benefits covered by this section. Long-term care benefits are as follows:

- (1) Nursing Home Benefits. -- The Plan will pay a fixed amount of the reasonable and customary daily charges allowed for nursing facilities providing skilled nursing care and intermediate nursing care up to a maximum amount per day for each day after a fixed number of consecutive days for each nursing home stay. Such daily charges shall be inclusive of semiprivate room and board; skilled and semiskilled nursing services; routine laboratory tests and examinations; physical, occupational, and speech therapy; respiratory and other gas therapy; and drugs, injections, biologicals, fluids, solutions, dietary aids and supplements, and other routine medical supplies and equipment. Readmission to a nursing home within 180 days, exclusive of hospital stays, for the same or related cause or causes shall be considered a single nursing home stay for the purposes of this section. Benefits

payable under this subdivision are contingent upon compliance with the following conditions and will, in no instance, be paid under this section without compliance with each of the following conditions:

- a. Confinement to a nursing home is medically appropriate due to an illness, disease, or injury upon recommendation of an admitting physician other than a proprietor, employee, or agent of the nursing home;
- b. Confinement to a nursing home is for any overnight stay for which a charge for a day's stay is due and payable; and
- c. Prior to confinement, the admitting physician secures approval certification from the Plan for confinement.

As used in this section, a nursing home is a facility or a part of a facility which is (i) operated under State law and which is qualified as a skilled nursing or intermediate nursing facility under Medicare; or is (ii) a facility meeting the requirements for licensure under Chapter 131E of the General Statutes.

- (2) Custodial Benefits. -- The Plan will pay a fixed percentage of the fixed amount of reasonable and customary daily charges allowed by the Plan in subdivision (1) of this section for assisted living facilities, for adult day care facilities, and for home care agencies up to a maximum amount per day for each day after a fixed number of consecutive days that such custodial care is provided. Benefits payable under this subdivision are contingent upon compliance with the following conditions and will, in no instance, be paid under this subdivision without compliance with each of the following conditions:

- a. Use of such custodial benefits is medically appropriate in a treatment plan established and certified initially and at least once every six months by an attending physician or other allied health professionals other than a proprietor, employee, or agent of one or more of the aforementioned facilities and agencies;
- b. Confinement to a nursing home would be medically appropriate without custodial care proposed to be rendered by one or more of the aforementioned facilities or agencies; and
- c. Prior to use of such custodial benefits, an attending physician or other allied health professional secures approval from the Plan for the use of the benefits.

As used in this section, an assisted living facility is a facility which (i) is operated under State law to provide residential care for the aged or disabled whose principal need is a home which provides personal care appropriate to their age or disability; or (ii) meets the requirements for licensure under Chapter 131D of the General Statutes. As used in this section, an adult care facility is a facility which (i) is operated under State law to provide group care for the aged and disabled in a setting away from their residence on a less than 24-hour basis when such aged or disabled would otherwise be in need of full-time personal care away from their residence; or (ii) meets the requirements for certification under Chapter 131D of the General Statutes.

As used in this section, a home care agency is a residential care agency which is (i) operated under State law and which is qualified as a home health care agency under Medicare; or (ii) an agency meeting the requirements for licensure as a home care agency under Chapter 131E of the General Statutes.

- (3) Other Benefits. -- Upon prior approval of the Plan, other care, services, supplies, and equipment may be used as more cost-effective alternatives to the benefits provided by this section when directed by an attending physician.
- (4) The Executive Administrator and Board of Trustees of the Plan shall establish the payment percentages, maximum daily payment rates, benefit periods, elimination periods, and maximum lifetime benefits payable for each covered individual for the nursing home and custodial benefits provided by this section. The Executive Administrator and Board of Trustees shall provide for inflationary increases in the maximum daily payment rates and the maximum lifetime benefits payable for each covered individual.
- (5) The Executive Administrator and Board of Trustees of the Plan shall provide a bed reservation benefit whenever Plan members are hospitalized during a stay in a nursing home or an assisted living facility.
- (6) The Executive Administrator and Board of Trustees of the Plan shall provide for a waiver of premiums involving minimum lengths of stay in a nursing home or an assisted living facility. In addition, the Executive Administrator and Board of Trustees shall allow coverage to be reinstated upon failure to pay premiums, provided certain grace periods are not exceeded and retroactive premium payments are made.
- (7) Limitations and Exclusions to Long-Term Care Benefits. -- The benefits provided by this section are for the purpose of meeting the requirements for assistance from the loss of functional capacity associated with a chronic illness, disease, or disabling injury for extended periods of time; and are, in no way, intended to duplicate the benefits provided for acute and other medical care provided by Medicare or Part 3 of this Article. A loss of functional capacity can occur from: (i) an illness, disease, or disabling injury resulting in a physical incapacity to perform the activities of daily living; or (ii) an irreversible organic mental impairment resulting in a mental incapacity. Activities of daily living consist of routine functions involving personal care and mobility.

"§ 135.41.2. Conversion.

Upon cessation of group coverage under this Part, an employee, retired employee, or dependent shall be entitled to a conversion to a nongroup plan of long-term care benefits. The Executive Administrator and Board of Trustees of the Plan shall determine how the conversion rights authorized by this Part shall be administered.

"§ 135.41.3. Right to alter, amend, or repeal.

The General Assembly reserves the right to alter, amend, or repeal this Part."

Section 8. This act becomes effective January 1, 1998.

In the General Assembly read three times and ratified this the 21st day of August, 1997.

Became law upon approval of the Governor at 4:16 p.m. on the 1st day of September, 1997.

S.B. 372

CHAPTER 469

AN ACT TO AMEND, FOR SERVICE IN A CIVIL ACTION UPON A DEFENDANT LOCATED OUTSIDE THE UNITED STATES, THE TIME LIMITS REGARDING THE SECURING OF AN ENDORSEMENT UPON THE ORIGINAL SUMMONS OR THE SUING OUT OF AN ALIAS OR PLURIES SUMMONS WHEN THE DEFENDANT IS NOT SERVED WITHIN THE TIME ALLOWED FOR SERVICE AND TO VALIDATE NOTARIAL ACTS PERFORMED BY CERTAIN NOTARIES BEFORE JUNE 1, 1997.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1A-1, Rule 4(d) reads as rewritten:

"(d) Summons -- Extension; endorsement, alias and pluries. -- When any defendant in a civil action is not served within the time allowed for service, the action may be continued in existence as to such defendant by either of the following methods of extension:

- (1) The plaintiff may secure an endorsement upon the original summons for an extension of time within which to complete service of process. Return of the summons so endorsed shall be in the same manner as the original process. Such endorsement may be secured within 90 days after the issuance of summons or the date of the last prior endorsement, or
- (2) The plaintiff may sue out an alias or pluries summons returnable in the same manner as the original process. Such alias or pluries summons may be sued out at any time within 90 days after the date of issue of the last preceding summons in the chain of summonses or within 90 days of the last prior endorsement.

Provided, in tax and assessment foreclosures under G.S. 47-108.25 and G.S. 105-374, the first endorsement may be made at any time within two years after the issuance of the original summons, and subsequent endorsements may thereafter be made as in other actions; or an alias or pluries summons may be sued out at any time within two years after the issuance of the original summons, and after the issuance of such alias or pluries summons, the chain of summonses may be kept up as in any other action.

Provided, for service upon a defendant in a place not within the United States, the first endorsement may be made at any time within two years after the issuance of the original summons, and subsequent endorsements may thereafter be made at least once every two years; or an alias or pluries summons may be sued out at any time within two years after the issuance of the original summons, and after the issuance of such alias or pluries summons, the chain of summonses may be kept up as in any other action if

sued out within two years of the last preceding summons in the chain of summonses or within two years of the last prior endorsement.

Provided, further, the methods of extension may be used interchangeably in any case and regardless of the form of the preceding extension."

Section 2. G.S. 10A-16(d), as amended by S.L. 1997-19, reads as rewritten:

"(d) This section applies to notarial acts performed before ~~December 31, 1996, June 1, 1997.~~"

Section 3. Section 1 of this act becomes effective October 1, 1997. The remaining sections of this act are effective when they become law.

In the General Assembly read three times and ratified this the 21st day of August, 1997.

Became law upon approval of the Governor at 4:20 p.m. on the 1st day of September, 1997.

S.B. 441

CHAPTER 470

AN ACT TO INCREASE THE AMOUNT ALLOCATED TO SHERIFFS FROM THE FEES CHARGED FOR CONCEALED HANDGUN APPLICATIONS AND RENEWALS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-415.19(a) reads as rewritten:

"(a) The permit fees assessed under this Article are payable to the sheriff. The sheriff shall transmit the proceeds of these fees to the county finance officer to be remitted or credited by the county finance officer in accordance with the provisions of this subsection. The permit fees are as follows:

Application fee	\$80.00
Renewal fee	\$80.00
Duplicate permit fee	\$15.00

The county finance officer shall remit ~~sixty dollars (\$60.00)~~ forty-five dollars (\$45.00) of each application or renewal fee to the North Carolina Department of Justice for the costs of State and federal criminal record checks performed in connection with processing applications and for the implementation of the provisions of this Article. The remaining ~~twenty dollars (\$20.00)~~ thirty-five dollars (\$35.00) of each application or renewal fee shall be used by the sheriff to pay the costs of administering this Article and for other law enforcement purposes. The county shall expend the restricted funds for these purposes only."

Section 2. This act becomes effective September 1, 1997.

In the General Assembly read three times and ratified this the 21st day of August, 1997.

Became law upon approval of the Governor at 4:25 p.m. on the 1st day of September, 1997.

S.B. 627

CHAPTER 471

AN ACT TO CLARIFY AND EXPAND THE CLASSIFICATION OF PERSONS WHO MAY OBTAIN A DOMESTIC VIOLENCE PROTECTIVE ORDER; TO CLARIFY THE CIRCUMSTANCES UNDER WHICH MAGISTRATES MAY ISSUE PROTECTIVE ORDERS; AND TO IMPOSE A CRIMINAL PENALTY FOR VIOLATION OF A PROTECTIVE ORDER.

The General Assembly of North Carolina enacts:

Section 1. G.S. 50B-1 reads as rewritten:

"§ 50B-1. *Domestic violence; definition.*

(a) Domestic violence means the commission of one or more of the following acts upon an aggrieved party or upon a minor child residing with or in the custody of the aggrieved party by a person with whom the aggrieved party has or has had a familial personal relationship, but does not include acts of self-defense:

- (1) Attempting to cause bodily injury, or intentionally causing bodily injury; or
- (2) Placing the aggrieved party or a member of the aggrieved party's family or household in fear of imminent serious bodily injury; or
- (3) Committing any act defined in G.S. 14-27.2 through G.S. 14-27.7.

(b) For purposes of this section, the term 'familial personal relationship' means a relationship wherein the parties involved:

- (1) Are current or former spouses;
- (2) Are persons of opposite sex who live together or have lived together;
- (3) Are parents, grandparents, or others acting in loco parentis to a minor child, or children and grandchildren; Are related as parents and children, including others acting in loco parentis to a minor child, or as grandparents and grandchildren. For purposes of this subdivision, an aggrieved party may not obtain an order of protection against a child or grandchild under the age of 16;
- (4) Have a child in ~~common.~~ common;
- (5) Are current or former household members;
- (6) Are persons of the opposite sex who are in a dating relationship or have been in a dating relationship. For purposes of this subdivision, a dating relationship is one wherein the parties are romantically involved over time and on a continuous basis during the course of the relationship. A casual acquaintance or ordinary fraternization between persons in a business or social context is not a dating relationship."

Section 2. G.S. 50B-2(c1) reads as rewritten:

"(c1) Ex Parte Orders by Authorized Magistrate. -- The chief district court judge may authorize a magistrate or magistrates to hear any motions for emergency relief ex parte. Prior to the hearing, if the magistrate determines that at the time the party is seeking emergency relief ex parte ~~the clerk of superior court is not available,~~ the district court is not in session,

session and a district court judge is not and will not be available to hear the motion for a period of four or more hours, the motion may be heard by the magistrate. If it clearly appears to the magistrate from specific facts shown that there is a danger of acts of domestic violence against the aggrieved party or a minor child, the magistrate may enter such orders as it deems necessary to protect the aggrieved party or minor children from such acts, except that a temporary order for custody ex parte and prior to service of process and notice shall not be entered unless the magistrate finds that the child is exposed to a substantial risk of bodily injury or sexual abuse. An ex parte order entered under this subsection shall expire and the magistrate shall schedule an ex parte hearing before a district court judge within 72 hours of the filing for relief under this subsection, or by the end of the next day on which the district court is in session in the county in which the action was filed, whichever occurs first. A party who has paid court costs due for seeking an order from the magistrate under this subsection shall not be liable for court costs for a hearing before the district court judge scheduled and heard pursuant to an order entered by the magistrate under this subsection. Ex parte orders entered by the district court judge pursuant to this subsection shall be entered and scheduled in accordance with subsection (c) of this section."

Section 3. Chapter 50B is amended by adding the following new section to read:

"§ 50B-4A. Violation of valid protective order a misdemeanor.

A person who knowingly violates a valid protective order entered pursuant to this Chapter shall be guilty of a Class A1 misdemeanor."

Section 4. This act becomes effective December 1, 1997, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 21st day of August, 1997.

Became law upon approval of the Governor at 4:28 p.m. on the 1st day of September, 1997.

H.B. 899

CHAPTER 472

AN ACT TO MODIFY THE REQUIREMENTS FOR DISCLOSURES UPON THE SALE OF RESIDENTIAL PROPERTIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 47E-4 reads as rewritten:

"§ 47E-4. Required disclosures.

(a) With regard to transfers described in G.S. 47E-1, the owner of the real property shall furnish to a purchaser a residential property disclosure statement. ~~The disclosure statement shall contain the language and be in the form set forth in subsection (b) of this section. The statement shall:~~

- (1) Disclose those items which are required to be disclosed relative to the characteristics and condition of the property and of which the owner has actual knowledge; or
- (2) State that the owner makes no representations as to the characteristics and condition of the real property or any

improvements to the real property except as otherwise provided in the real estate contract.

(b) ~~A residential property disclosure statement shall read as follows:~~

~~"RESIDENTIAL PROPERTY DISCLOSURE STATEMENT~~

~~Notice to Seller and Purchaser~~

~~The North Carolina Residential Property Disclosure Act requires the owner of residential real property consisting of 1-4 units, whenever the property is to be sold, exchanged, optioned, or purchased pursuant to a lease with option to purchase, to furnish to the purchaser a RESIDENTIAL PROPERTY DISCLOSURE STATEMENT disclosing certain conditions of the property. Certain transfers of residential property are excluded from this requirement by G.S. 47E-2, including transfers of residential property made pursuant to a lease with an option to purchase where the lessee occupies or intends to occupy the dwelling.~~

~~Property Address/Description: _____~~

~~The undersigned owner(s) of the real property described above disclose the following present conditions of the real property of which the owner(s) has actual knowledge with regard to:~~

~~1. Any abnormality or malfunctioning of the water supply or sanitary sewage disposal system:~~

~~☐ Yes ☐ None Known~~

~~☐ No Representations~~

~~If Yes, please describe _____~~

~~2. Any damage to or abnormality of the roof, chimneys, floors, foundation, basement, or load-bearing walls, or any leak in the roof or basement:~~

~~☐ Yes ☐ None Known~~

~~☐ No Representations~~

~~If Yes, please describe _____~~

~~3. Any abnormality or malfunctioning of the plumbing, electrical, heating, or cooling systems:~~

~~☐ Yes ☐ None Known~~

~~☐ No Representations~~

~~If Yes, please describe _____~~

~~4. Present infestation of wood-destroying insects or organisms or past infestation the damage for which has not been repaired:~~

~~☐ Yes ☐ None Known~~

~~☐ No Representations~~

~~If Yes, please describe _____~~

~~5. The real property's violation of zoning laws, restrictive covenants or building codes; any encroachment of the real property from or to adjacent real property; or notice from any governmental agency affecting this real property:~~

~~☐ Yes ☐ None Known~~

~~☐ No Representations~~

~~If Yes, please describe _____~~

~~6. Presence of lead-based paint, asbestos, radon gas, methane gas, underground storage tank, hazardous material or toxic material (whether buried or covered):~~

~~☐ Yes ☐ None Known~~

~~☐ No Representations~~

~~If Yes, please describe _____~~

~~The purchaser and owner may wish to obtain professional advice about, or inspections of, the real property. The owner has a duty to disclose any~~

~~material inaccuracy in this statement or any material change in the real property which is discovered between the date of this statement and the closing of the transaction. The owner(s) acknowledge having examined this statement before signing below:~~

Owner Date Owner

Date

~~The purchaser(s) acknowledge receipt of a copy of this disclosure statement and further acknowledge that they have examined it before signing below:~~

Purchaser Date
Purchaser Date"

(b) The North Carolina Real Estate Commission shall develop and require the use of a standard disclosure statement to comply with the requirements of this section. The disclosure statement shall specify that certain transfers of residential property are excluded from this requirement by G.S. 47E-2, including transfers of residential property made pursuant to a lease with an option to purchase where the lessee occupies or intends to occupy the dwelling, and shall include at least the following characteristics and conditions of the property:

- (1) The water supply and sanitary sewage disposal system;
- (2) The roof, chimneys, floors, foundation, basement, and other structural components and any modifications of these structural components;
- (3) The plumbing, electrical, heating, cooling, and other mechanical systems;
- (4) Present infestation of wood-destroying insects or organisms or past infestation the damage for which has not been repaired;
- (5) The zoning laws, restrictive covenants, building codes, and other land-use restrictions affecting the real property, any encroachment of the real property from or to adjacent real property, and notice from any governmental agency affecting this real property; and
- (6) Presence of lead-based paint, asbestos, radon gas, methane gas, underground storage tank, hazardous material or toxic material (whether buried or covered), and other environmental contamination.

The disclosure statement shall provide the owner with the option to indicate whether the owner has actual knowledge of the specified characteristics or conditions, or the owner is making no representations as to any characteristic or condition.

(c) The rights of the parties to a real estate contract as to conditions of the property of which the owner had no actual knowledge are not affected by this Article unless the residential disclosure statement states that the owner makes no representations as to those conditions. If the statement states that an owner makes no representations as to the conditions of the property, then the owner has no duty to disclose those conditions, whether or not the owner should have known of them."

Section 2. G.S. 47E-5 reads as rewritten:

"§ 47E-5. Time for disclosure; cancellation of contract.

(a) The owner of real property subject to this Chapter shall deliver to the purchaser the ~~written disclosures~~ disclosure statement required by this Chapter no later than the time ~~such~~ the purchaser makes an offer to purchase, exchange, or option the property, or exercises the option to purchase the property pursuant to a lease with an option to purchase. The residential property disclosure statement may be included in the real estate contract, in an addendum, or in a separate document.

(b) If the disclosure statement required by this Chapter is ~~not~~ delivered to ~~such~~ the purchaser ~~after~~ prior to or at the time the purchaser makes an offer, the purchaser may ~~terminate~~ cancel any resulting real estate contract or ~~withdraw the offer no later than three days after the purchaser receives the disclosure statement.~~ contract. The purchaser's right to cancel shall expire if not exercised prior to the following, whichever occurs first:

- (1) The end of the third calendar day following the purchaser's receipt of the disclosure statement;
- (2) The end of the third calendar day following the date the contract was made;
- (3) Settlement or occupancy by the purchaser in the case of a sale or exchange; or
- (4) Settlement in the case of a purchase pursuant to a lease with option to purchase.

Any right of the purchaser to cancel the contract provided by this subsection is waived conclusively if not exercised in the manner required by this subsection.

In order to ~~terminate~~ cancel a real estate contract when permitted by this section, the purchaser shall, within the time required above, give written notice to the owner or the owner's agent either by hand delivery or by depositing into the United States mail, postage prepaid, and properly addressed to the owner or the owner's agent. If the purchaser ~~terminates~~ cancels a real estate contract or ~~withdraws an offer~~ in compliance with this subsection, the ~~termination or withdrawal of offer~~ cancellation shall be without penalty to the purchaser, and the purchaser shall be entitled to a ~~refund of any deposit shall be promptly returned to the purchaser. Any rights of the purchaser to terminate the contract provided by this subsection are waived conclusively if not exercised prior to the earlier of settlement or occupancy by the purchaser in the case of a sale or exchange, or prior to settlement in the case of a purchase pursuant to a lease with option to purchase. the purchaser may have paid.~~ Any rights of the purchaser to cancel or terminate the contract for reasons other than those set forth in this subsection are not affected by this subsection."

Section 3. G.S. 47E-6 reads as rewritten:

"§ 47E-6. Owner liability for disclosure of information provided by others.

~~If the owner chooses to provide a disclosure of property condition pursuant to G.S. 47E-4, the~~ The owner may discharge the duty to disclose imposed by this Chapter by providing a written report attached to the residential property disclosure statement by a public agency or by an engineer, land surveyor, geologist, pest control operator, contractor, home inspector or other expert, dealing with matters within the scope of the public

agency's functions or the expert's license or expertise. The owner shall not be liable for any error, inaccuracy, or omission of any information delivered pursuant to this section if the error, inaccuracy, or omission was made in reasonable reliance upon the information provided by the public agency or expert and the owner was not grossly negligent in obtaining the information or transmitting it."

Section 4. G.S. 47E-8 reads as rewritten:

"§ 47E-8. *Agent's duty.*

A real estate broker or salesman acting as ~~the an agent of the owner of in~~ a residential real ~~property~~ estate transaction has the duty to inform ~~the owner~~ each of the clients of the real estate broker or salesman of the ~~owner's~~ client's rights and obligations under this Chapter. Provided the owner's real estate broker or salesman has performed this duty, the broker or salesman shall not be responsible for the owner's willful refusal to provide a prospective purchaser with a residential property disclosure statement. Nothing in this Chapter shall be construed to conflict with, or alter, the broker or salesman's duties under Chapter 93A of the General Statutes."

Section 5. G.S. 47E-1 reads as rewritten:

"§ 47E-1. *Applicability.*

This Chapter applies to the following transfers of residential real property consisting of not less than one nor more than four dwelling units, whether or not the transaction is with the assistance of a licensed real estate broker or salesman:

- (1) Sale or exchange,
- (2) Installment land sales contract,
- (3) Option, or
- (4) Lease with option to purchase, except as provided in ~~G.S. 47E-1-2(10).~~ G.S. 47E-2(10)."

Section 6. ~~Section 1~~ of this act becomes effective October 1, 1998, and applies to contracts entered into on or after that date. Sections 2, 3, and 4 of this act become effective December 1, 1997, and apply to contracts entered into on or after that date. Section 5 of this act is effective when this act becomes law. Effective when this act becomes law, the North Carolina Real Estate Commission is authorized to develop the standard disclosure statement under the amendments made by this act to G.S. 47E-4(b) to become effective October 1, 1998.

In the General Assembly read three times and ratified this the 21st day of August, 1997.

Became law upon approval of the Governor at 11:53 a.m. on the 2nd day of September, 1997.

H.B. 1064

CHAPTER 473

AN ACT TO ALLOW A HOUSING AUTHORITY TO TERMINATE OR FAIL TO RENEW A LEASE IF A TENANT ENGAGES IN CRIMINAL ACTIVITY, TO ALLOW CERTAIN SUMMARY EJECTMENT ACTIONS INITIATED BY A HOUSING AUTHORITY TO BE HELD IN DISTRICT COURT INSTEAD OF IN MAGISTRATE'S COURT, AND TO CLARIFY THAT A BOND IS NOT REQUIRED BEFORE

FILING AN ANSWER IN A SUMMARY EJECTMENT PROCEEDING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 157-29 reads as rewritten:

"§ 157-29. ~~Rentals and tenant selections.~~ Rentals; tenant selections; and summary ejectments.

(a) It is hereby declared to be the policy of this State that each housing authority shall manage and operate its housing projects in an efficient manner so as to enable it to fix the cost of dwelling accommodations for persons of low income at the lowest possible rates consistent with its providing decent, safe, and sanitary dwelling accommodations. No housing authority may construct or operate its housing projects so as to provide revenues for other activities of the city.

(b) In the operation or management of housing projects, or portions of projects, for persons of low income, an authority shall at all times observe the following duties with respect to rentals and tenant selection:

(1) It may rent or lease dwelling accommodations set aside for persons of low income only to persons who lack the amount of income ~~which~~ that is necessary (as determined by the housing authority undertaking the project) to enable them, without financial assistance, to live in decent, safe, and sanitary dwellings, without overcrowding; and

(2) It may rent or lease dwelling accommodations to persons of low income only at rentals within the financial reach of such persons.

(c) An authority may terminate or refuse to renew a rental agreement for a serious or repeated violation of a material term of the rental agreement such as (i) failure to make payments due under the rental agreement, if such payments were properly and promptly calculated according to applicable HUD regulation, whether or not such failure was the fault of the tenant, (ii) failure to fulfill the tenant obligations set forth in 24 C.F.R. Section 966.4(f) or other applicable provisions of federal law as they may be amended from time to time, or (iii) other good cause. Except in the case of failure to make payments due under a rental agreement, fault on the part of a tenant may be considered in determining whether good cause exists to terminate a rental agreement.

(d) The receipt or acceptance of rent by an authority, with or without knowledge of a prior default or failure by the tenant under a rental agreement, shall not constitute a waiver of that default or failure unless (i) the authority expressly agrees to such waiver in writing, or (ii) within 120 days after obtaining knowledge of the default or failure, the authority fails either to notify the tenant that a violation of the rental agreement has occurred or to exercise one of the authority's remedies for such violation.

(e) In any summary ejectment action wherein a housing authority alleges that a tenant's lease has been terminated because the tenant, a household member, or a guest has engaged in a criminal activity that threatens the health and safety of others or the peaceful enjoyment of the premises by others, or has engaged in activity involving illegal drugs, as defined in 24

C.F.R. § 966.4, the housing authority may bring an action under Article 7 of Chapter 42 of the General Statutes."

Section 2. G.S. 1-112 reads as rewritten:

"§ 1-112. Defense without bond.

(a) The undertaking prescribed in ~~the preceding section~~ G.S. 1-111 is not necessary if an attorney practicing in the court where the action is pending certifies to the court in writing that he has examined the case of the defendant and is of the opinion that the plaintiff is not entitled to recover; and if the defendant also files an affidavit stating that he is unable to give and is not worth the amount of the undertaking in any property whatsoever.

(b) An undertaking shall not be required in any summary ejection action brought pursuant to Articles 3 or 7 of Chapter 42 of the General Statutes."

Section 3. This act becomes effective October 1, 1997, and applies to acts committed on or after that date.

In the General Assembly read three times and ratified this the 21st day of August, 1997.

Became law upon approval of the Governor at 11:54 a.m. on the 2nd day of September, 1997.

S.B. 455

CHAPTER 474

AN ACT TO IMPROVE HMO SERVICES BY PROTECTING PHYSICIAN COMMUNICATIONS REGARDING TREATMENT, REQUIRING COVERAGE FOR EMERGENCY CARE, REDUCING THE APPROVAL PERIOD FOR RATE FILINGS, AND PROMOTING COLLABORATION BETWEEN HMOS AND PUBLIC HEALTH DEPARTMENTS.

The General Assembly of North Carolina enacts:

Section 1. Article 3 of Chapter 58 of the General Statutes is amended by adding the following new section to read:

"§ 58-3-176. Treatment discussions not limited.

(a) An insurer shall not limit either of the following:

(1) The participating plan provider's ability to discuss with an enrollee the clinical treatment options medically available, the risks associated with the treatments, or a recommended course of treatment.

(2) The participating plan provider's professional obligations to patients as specified under the provider's professional license.

(b) Nothing in this section shall be construed to expand or revise the scope of benefits covered by a health benefit plan.

(c) As used in this section:

(1) 'Health benefit plan' means any of the following if written by an insurer: an accident and health insurance policy or certificate; a nonprofit hospital or medical service corporation contract; a health maintenance organization subscriber contract; or a plan provided by a multiple employer welfare arrangement. 'Health benefit plan' does not mean any plan implemented or administered through the

Department of Human Resources or its representatives. 'Health benefit plan' also does not mean any of the following kinds of insurance:

- a. Accident.
- b. Credit.
- c. Disability income.
- d. Long-term or nursing home care.
- e. Medicare supplement.
- f. Specified disease.
- g. Dental or vision.
- h. Coverage issued as a supplement to liability insurance.
- i. Workers' compensation.
- j. Medical payments under automobile or homeowners insurance.
- k. Hospital income or indemnity.
- l. Insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability policy or equivalent self-insurance.

- (2) 'Insurer' means an entity that writes a health benefit plan and that is an insurance company subject to this Chapter, a service corporation under Article 65 of this Chapter, a health maintenance organization under Article 67 of this Chapter, or a multiple employer welfare arrangement under Article 49 of this Chapter."

Section 2. Chapter 58 of the General Statutes is amended by adding the following new section to read:

"§ 58-3-190. Coverage required for emergency care.

(a) Every insurer shall provide coverage for emergency services to the extent necessary to screen and to stabilize the person covered under the plan and shall not require prior authorization of the services if a prudent layperson acting reasonably would have believed that an emergency medical condition existed. Payment of claims for emergency services shall be based on the retrospective review of the presenting history and symptoms of the covered person.

(b) With respect to emergency services provided by a health care provider who is not under contract with the insurer, the services shall be covered if:

- (1) A prudent layperson acting reasonably would have believed that a delay would worsen the emergency, or
- (2) The covered person did not seek services from a provider under contract with the insurer because of circumstances beyond the control of the covered person.

(c) An insurer that has given prior authorization for emergency services shall cover the services and shall not retract the authorization after the services have been provided unless the authorization was based on a material misrepresentation about the covered person's health condition made by the provider of the emergency services or the covered person.

(d) Coverage of emergency services shall be subject to coinsurance, co-payments, and deductibles applicable under the health benefit plan. An insurer shall not impose cost-sharing for emergency services provided under this section that differs from the cost-sharing that would have been imposed

if the physician or provider furnishing the services were a provider contracting with the insurer.

(e) Both the emergency department and the insurer shall make a good faith effort to communicate with each other in a timely fashion to expedite postevaluation or poststabilization services in order to avoid material deterioration of the covered person's condition within a reasonable clinical confidence, or with respect to a pregnant woman, to avoid material deterioration of the condition of the unborn child within a reasonable clinical confidence.

(f) Insurers shall provide information to their covered persons on all of the following:

(1) Coverage of emergency medical services.

(2) The appropriate use of emergency services, including the use of the '911' system and other telephone access systems utilized to access prehospital emergency services.

(3) Any cost-sharing provisions for emergency medical services.

(4) The process and procedures for obtaining emergency services, so that covered persons are familiar with the location of in-plan emergency departments and with the location and availability of other in-plan settings at which covered persons may receive medical care.

(g) As used in this section, the term:

(1) 'Emergency medical condition' means a medical condition manifesting itself by acute symptoms of sufficient severity, including, but not limited to, severe pain, or by acute symptoms developing from a chronic medical condition that would lead a prudent layperson, possessing an average knowledge of health and medicine, to reasonably expect the absence of immediate medical attention to result in any of the following:

a. Placing the health of an individual, or with respect to a pregnant woman, the health of the woman or her unborn child, in serious jeopardy.

b. Serious impairment to bodily functions.

c. Serious dysfunction of any bodily organ or part.

(2) 'Emergency services' means health care items and services furnished or required to screen for or treat an emergency medical condition until the condition is stabilized, including prehospital care and ancillary services routinely available to the emergency department.

(3) 'Health benefit plan' means any of the following if written by an insurer: an accident and health insurance policy or certificate; a nonprofit hospital or medical service corporation contract; a health maintenance organization subscriber contract; or a plan provided by a multiple employer welfare arrangement. 'Health benefit plan' does not mean any plan implemented or administered through the Department of Human Resources or its representatives. 'Health benefit plan' also does not mean any of the following kinds of insurance:

a. Accident.

- b. Credit.
 - c. Disability income.
 - d. Long-term or nursing home care.
 - e. Medicare supplement.
 - f. Specified disease.
 - g. Dental or vision.
 - h. Coverage issued as a supplement to liability insurance.
 - i. Workers' compensation.
 - j. Medical payments under automobile or homeowners insurance.
 - k. Hospital income or indemnity.
 - l. Insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability policy or equivalent self-insurance.
- (4) 'Insurer' means an entity that writes a health benefit plan and that is an insurance company subject to this Chapter, a service corporation under Article 65 of this Chapter, a health maintenance organization under Article 67 of this Chapter, or a multiple employer welfare arrangement under Article 49 of this Chapter.
- (5) 'To stabilize' means to provide medical care that is appropriate to prevent a material deterioration of the person's condition, within reasonable medical probability, in accordance with the HCFA (Health Care Financing Administration) interpretative guidelines, policies and regulations pertaining to responsibilities of hospitals in emergency cases (as provided under the Emergency Medical Treatment and Labor Act, section 1867 of the Social Security Act, 42 U.S.C.S. 1395dd), including medically necessary services and supplies to maintain stabilization until the person is transferred.'

Section 3. G.S. 58-67-50(c) reads as rewritten:

"(c) The Commissioner shall, within a reasonable period, approve any form if the requirements of subsection (a) of this section are met and any schedule of premiums if the requirements of subsection (b) of this section are met. It shall be unlawful to issue the form or to use the schedule of premiums until approved. If the Commissioner disapproves the filing, the Commissioner shall notify the filer. In the notice, the Commissioner shall specify the reasons for disapproval. A hearing will be granted within 30 days after a request in writing by the person filing. If the Commissioner does not approve or disapprove any form or schedule of premiums within 90 days after the filing for forms and within 60 45 days after the filing for premiums, they shall be deemed to be approved."

Section 4. Article 67 of Chapter 58 of the General Statutes is amended by adding the following new section:

"§ 58-67-66. *Collaboration with local health departments.*

A health maintenance organization and a local health department shall collaborate and cooperate within available resources regarding health promotion and disease prevention efforts that are necessary to protect the public health."

Section 5. Section 2 of this act becomes effective January 1, 1998, and applies to health benefit plans issued, renewed, or amended on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 22nd day of August, 1997.

Became law upon approval of the Governor at 10:13 a.m. on the 3rd day of September, 1997.

S.B. 727

CHAPTER 475

AN ACT TO REDUCE THE STATE SALES TAX ON FOOD BY AN ADDITIONAL ONE CENT EFFECTIVE JULY 1, 1998, TO ESTABLISH THE PERCENTAGE RATES FOR THE INSURANCE REGULATORY CHARGE AND THE PUBLIC UTILITY REGULATORY FEE, TO CLARIFY THE BASIS OF THE PREMIUM TAX LIABILITY ON WHICH THE INSURANCE REGULATORY CHARGE IS LEVIED, TO INCREASE COURT FEES IN CRIMINAL CASES, TO INCREASE THE FEES FOR FILING CERTAIN DOCUMENTS, AND TO PROVIDE THAT ANNUAL REPORTS OF MOST BUSINESS CORPORATIONS SHALL BE FILED WITH THE DEPARTMENT OF REVENUE RATHER THAN THE SECRETARY OF STATE.

The General Assembly of North Carolina enacts:

PART I. FOOD TAX REDUCTION

Section 1.1. G. S. 105-164.4(a)(5) reads as rewritten:

"(5) The rate of ~~three percent (3%)~~ two percent (2%) applies to the sales price of food that is not otherwise exempt pursuant to G.S. 105-164.13 but would be exempt pursuant to G.S. 105-164.13 if it were purchased with coupons issued under the Food Stamp Program, 7 U.S.C. § 51."

Section 1.2. Section 1.1 of this act becomes effective July 1, 1998, and applies to sales made on or after that date.

PART II. INSURANCE REGULATORY CHARGE

Section 2.1. The percentage rate to be used in calculating the insurance regulatory charge under G.S. 58-6-25 is eight and seventy-five-hundredths percent (8.75%) for the 1997 calendar year.

Section 2.2. G.S. 58-6-25(a) reads as rewritten:

"(a) Charge Levied. -- There is levied on each insurance company an annual charge for the purposes stated in subsection (d) of this section. As used in this section, the term 'insurance company' means a company that pays the gross premiums tax levied in G.S. 105-228.5 and G.S. 105-228.8, ~~except that the term does not include a hospital, medical, or dental service corporation regulated under Articles 65 and 66 of this Chapter. The term "insurance company" does not include a company regulated under Article 67 of this Chapter.~~ a service corporation subject to Article 65 of this Chapter. A health maintenance organization subject to Article 67 of this Chapter is not subject to those taxes and is therefore not subject to the charge levied in this section. The charge levied in this section is in addition to all other fees and taxes. The charge shall be at a percentage rate of the company's premium tax liability for the taxable year. In determining an insurance company's premium tax liability for a taxable year, additional

taxes imposed by G.S. 105-228.8 and G.S. 105-228.8, the additional local fire and lightning tax imposed by G.S. 105-228.5(d)(4) G.S. 105-228.5(d)(4), and any tax credits for guaranty or solvency fund assessments under G.S. 105-228.5A or G.S. 97-133(a) shall be disregarded."

Section 2.3. G.S. 97-133(a)(2) reads as rewritten:

"(2) Assess each member of the Association as follows:

- a. Each individual member self-insurer shall be annually assessed an amount equal to one-quarter of one percent (0.25%) of the annual standard premium that would have been paid by that member self-insurer for workers' compensation insurance during the prior calendar year; and payment to the Association shall be made no later than September 15 following the close of that calendar year. Where any such assessment is paid based in whole or in part upon estimates of annual standard premium for the prior calendar year, there shall be made in the next year's assessment an adjustment of the assessment of such prior year based on actual audited annual standard premium. Each group member self-insurer shall be annually assessed an amount equal to one-quarter of one percent (0.25%) of the annual premium collected by the group member self-insurer during the prior calendar year; and payment to the Association shall be made no later than September 15 following the close of that calendar year. Regardless of the size of the Fund, during its first 12 months of membership, no member self-insurer may discount or reduce this one-quarter of one percent (0.25%) assessment. Assessments paid by members pursuant to this subdivision shall be credited toward the tax paid by self-insurers under G.S. 105-228.5 and G.S. 97-100. Article 8B of Chapter 105 of the General Statutes.
- b. Each member self-insurer shall be notified of the assessment no later than 30 days before it is due.
- c. If a self-insurer is a member of the Association for less than a full calendar year, the annual standard premium shall be adjusted by that portion of the year the self-insurer is not a member of the Association.
- d. If application of the contribution rates referenced in subdivisions a. and b. of this subdivision would produce an amount in excess of the five million dollar (\$5,000,000) limits of the fund, an equitable proration may be made; provided that every self-insurer that becomes a member of the Association shall pay an initial assessment, in an amount established by the Board, regardless of the size of the fund at the time the member joins the Association."

Section 2.4. G.S. 97-133(a)(4) reads as rewritten:

- "(4) Be obligated to the extent of covered claims occurring prior to the determination of the member self-insurer's insolvency, or occurring after such determination but prior to the obtaining by

the self-insurer of workers' compensation insurance as otherwise required under this Chapter. The Association shall pay claims against a self-insurer that are not or have not been paid as a result of a determination of insolvency or the institution of bankruptcy or receivership proceedings that occurred prior to the effective date of this Article; ~~provided that any assessments made to pay such claims may be credited towards the tax paid by the self-insurers under G.S. 97-100; Article."~~

Section 2.5. Sections 2.1 through 2.4 of this act are effective when this act becomes law.

PART III. PUBLIC UTILITY REGULATORY FEE

Section 3.1. The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) is nine-hundredths percent (0.09%) of each public utility's North Carolina jurisdictional revenues earned during each quarter that begins on or after July 1, 1997.

Section 3.2. Section 3.1 of this act becomes effective July 1, 1997.

PART IV. INCREASE COURT FEES IN CRIMINAL CASES

Section 4.1. G.S. 7A-304 reads as rewritten:

"§ 7A-304. *Costs in criminal actions.*

(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and collected, except that when the judgment imposes an active prison sentence, costs shall be assessed and collected only when the judgment specifically so provides, and that no costs may be assessed when a case is dismissed.

- (1) For each arrest or personal service of criminal process, including citations and subpoenas, the sum of five dollars (\$5.00), to be remitted to the county wherein the arrest was made or process was served, except that in those cases in which the arrest was made or process served by a law-enforcement officer employed by a municipality, the fee shall be paid to the municipality employing the officer.
- (2) For the use of the courtroom and related judicial facilities, the sum of six dollars (\$6.00) in the district court, including cases before a magistrate, and the sum of twenty-four dollars (\$24.00) in superior court, to be remitted to the county in which the judgment is rendered. In all cases where the judgment is rendered in facilities provided by a municipality, the facilities fee shall be paid to the municipality. Funds derived from the facilities fees shall be used exclusively by the county or municipality for providing, maintaining, and constructing adequate courtroom and related judicial facilities, including: adequate space and furniture for judges, district attorneys, public defenders, magistrates, juries, and other court related personnel; office space, furniture and vaults for the clerk; jail and juvenile detention facilities; free parking for jurors; and a law library (including books) if one has heretofore been established or if the governing body hereafter decides to establish one. In the event

the funds derived from the facilities fees exceed what is needed for these purposes, the county or municipality may, with the approval of the Administrative Officer of the Courts as to the amount, use any or all of the excess to retire outstanding indebtedness incurred in the construction of the facilities, or to reimburse the county or municipality for funds expended in constructing or renovating the facilities (without incurring any indebtedness) within a period of two years before or after the date a district court is established in such county, or to supplement the operations of the General Court of Justice in the county.

- (3) For the retirement and insurance benefits of both State and local government law-enforcement officers, the sum of seven dollars and twenty-five cents (\$7.25), to be remitted to the State Treasurer. Fifty cents (50¢) of this sum shall be administered as is provided in Article 12C of Chapter 143 of the General Statutes. Five dollars and seventy-five cents (\$5.75) of this sum shall be administered as is provided in Article 12E of Chapter 143 of the General Statutes, with one dollar and twenty-five cents (\$1.25) being administered in accordance with the provisions of G.S. 143-166.50(e). One dollar (\$1.00) of this sum shall be administered as is provided in Article 12F of Chapter 143 of the General Statutes.
- (3a) For the supplemental pension benefits of sheriffs, the sum of seventy-five cents (75¢) to be remitted to the Department of Justice and administered under the provisions of Article 12G of Chapter 143 of the General Statutes.
- (4) For support of the General Court of Justice, the sum of ~~forty-six dollars (\$46.00)~~ sixty-one dollars (\$61.00) in the district court, including cases before a magistrate, and the sum of ~~fifty-three dollars (\$53.00)~~ sixty-eight dollars (\$68.00) in the superior court, to be remitted to the State Treasurer.
- (5) For using pretrial release services, the district or superior court judge shall, upon conviction, impose a fee of fifteen dollars (\$15.00) to be remitted to the county providing the pretrial release services. This cost shall be assessed and collected only if the defendant had been accepted and released to the supervision of the agency providing the pretrial release services.
- (6) For support of the General Court of Justice, for the issuance by the clerk of a report to the Division of Motor Vehicles pursuant to G.S. 20-24.2, the sum of fifty dollars (\$50.00), to be remitted to the State Treasurer. Upon a showing to the court that the defendant failed to appear because of an error or omission of a judicial official, a prosecutor, or a law-enforcement officer, the court shall waive this fee.

~~(a1) The costs assessed pursuant to subsection (a) may also be collected by clerks of court for charges in which a party elects to pay the court's costs to satisfy the requirements of G.S. 20-7.2. Costs collected pursuant to this subsection shall be allocated in the same manner as other costs collected pursuant to this section. If a party elects to pay the costs of court to satisfy~~

~~the requirements of G.S. 20-7.2 and is subsequently adjudged guilty of the same charge by the court, he shall not be required to pay the costs of court again for that charge, but he is subject to any other orders of the court, including an order to pay a fine.~~

(b) On appeal, costs are cumulative, and costs assessed before a magistrate shall be added to costs assessed in the district court, and costs assessed in the district court shall be added to costs assessed in the superior court, except that the fee for the Law-Enforcement Officers' Benefit and Retirement Fund and the Sheriffs' Supplemental Pension Fund and the fee for pretrial release services shall be assessed only once in each case. No superior court costs shall be assessed against a defendant who gives notice of appeal from the district court but withdraws it prior to the expiration of the 10-day period for entering notice of appeal. When a case is reversed on appeal, the defendant shall not be liable for costs, and the State shall be liable for the cost of printing records and briefs in the Appellate Division.

(c) Witness fees, expenses for blood tests and comparisons incurred by G.S. 8-50.1(a), jail fees and cost of necessary trial transcripts shall be assessed as provided by law in addition to other costs set out in this section. Nothing in this section shall limit the power or discretion of the judge in imposing fines or forfeitures or ordering restitution.

(d) In any criminal case in which the liability for costs, fines, restitution, or any other lawful charge has been finally determined, the clerk of superior court shall, unless otherwise ordered by the presiding judge, disburse such funds when paid in accordance with the following priorities:

- (1) Costs due the county;
- (2) Costs due the city;
- (3) Fines to the county school fund;
- (4) Sums in restitution prorated among the persons entitled thereto;
- (5) Costs due the State;
- (6) Attorney's fees.

Sums in restitution received by the clerk of superior court shall be disbursed when:

- (1) Complete restitution has been received; or
- (2) When, in the opinion of the clerk, additional payments in restriction will not be collected; or
- (3) Upon the request of the person or persons entitled thereto; and
- (4) In any event, at least once each calendar year.

(e) Unless otherwise provided by law, the costs assessed pursuant to this section for criminal actions disposed of in the district court are also applicable to infractions disposed of in the district court. The costs assessed in superior court for criminal actions appealed from district court to superior court are also applicable to infractions appealed to superior court. If an infraction is disposed of in the superior court pursuant to G.S. 7A-271(d), costs applicable to the original charge are applicable to the infraction."

Section 4.2. Section 4.1 of this act becomes effective September 1, 1997, and applies to fees assessed or paid on or after that date.

PART V. INCREASE FILING FEES

Section 5.1. G.S. 55-1-22 reads as rewritten:

"§ 55-1-22. *Filing, service, and copying fees.*

(a) The Secretary of State shall collect the following fees when the documents described in this subsection are delivered to him the Secretary for filing:

Document	Fee
(1) Articles of incorporation	\$100.00
	<u>\$125.00</u>
(2) Application for reserved name	10.00
(3) Notice of transfer of reserved name	10.00
(4) Application for registered name	10.00
(5) Application for renewal of registered name	10.00
(6) Corporation's statement of change of registered agent or registered office or both	5.00
(7) Agent's statement of change of registered office for each affected corporation	5.00
(8) Agent's statement of resignation	No fee
(9) Designation of registered agent or registered office or both	5.00
(10) Amendment of articles of incorporation	50.00
(11) Restated articles of incorporation with amendment of articles	10.00
	50.00
(12) Articles of merger or share exchange	50.00
(13) Articles of dissolution	30.00
(14) Articles of revocation of dissolution	10.00
(15) Certificate of administrative dissolution	No fee
(16) Application for reinstatement following administrative dissolution	25.00
	<u>100.00</u>
(17) Certificate of reinstatement	No fee
(18) Certificate of judicial dissolution	No fee
(19) Application for certificate of authority	200.00
	<u>250.00</u>
(20) Application for amended certificate of authority	50.00
(21) Application for certificate of withdrawal	10.00
(22) Certificate of revocation of authority to transact business	No fee
(23) Annual report	10.00
	<u>20.00</u>
(24) Articles of correction	10.00
(25) Application for certificate of existence or authorization	5.00

- (26) Any other document required or permitted to be filed by this Chapter 10.00.

(b) The Secretary of State shall collect a fee of ten dollars (\$10.00) each time process is served on ~~him~~ the Secretary under this Chapter. The party to a proceeding causing service of process is entitled to recover this fee as costs if ~~he~~ the party prevails in the proceeding.

(c) The Secretary of State shall collect the following fees for copying, comparing, and certifying a copy of any filed document relating to a domestic or foreign corporation:

(1) One dollar (\$1.00) a page for copying or comparing a copy to the original; and

(2) Five dollars (\$5.00) for the certificate."

Section 5.2. G.S. 55A-1-22 reads as rewritten:

"§ 55A-1-22. *Filing, service, and copying fees.*

(a) The Secretary of State shall collect the following fees when the documents described in this subsection are delivered to the Secretary for filing:

	Document	Fee
(1)	Articles of incorporation	\$50.00
		\$60.00
(2)	Application for reserved name	\$10.00
(3)	Notice of transfer of reserved name	\$10.00
(4)	Application for registered name	\$10.00
(5)	Application for renewal of registered name	\$10.00
(6)	Corporation's statement of change of registered agent or registered office or both	\$ 5.00
(7)	Agent's statement of change of registered office for each affected corporation	\$ 5.00
(8)	Agent's statement of resignation	No fee
(9)	Designation of registered agent or registered office or both	\$ 5.00
(10)	Amendment of articles of incorporation	\$25.00
(11)	Restated articles of incorporation without amendment of articles	\$10.00
(12)	Restated articles of incorporation with amendment of articles	\$25.00
(13)	Articles of merger	\$25.00
(14)	Articles of dissolution	\$15.00
(15)	Articles of revocation of dissolution	\$10.00
(16)	Certificate of administrative dissolution	No fee
(17)	Application for reinstatement following administrative dissolution	\$25.00
		\$100.00
(18)	Certificate of reinstatement	No fee
(19)	Certificate of judicial dissolution	No fee
(20)	Application for certificate of authority	\$100.00
		\$125.00

(21)	Application for amended certificate of authority	\$25.00
(22)	Application for certificate of withdrawal	\$10.00
(23)	Certificate of revocation of authority to conduct affairs	No fee
(24)	Corporation's Statement of Change of Principal Office	\$ 5.00
(24a)	Designation of Principal Office Address	\$ 5.00
(25)	Articles of correction	\$10.00
(26)	Application for certificate of existence or authorization	\$ 5.00
(27)	Any other document required or permitted to be filed by this Chapter	\$10.00."

Section 5.3. G.S. 57C-1-22 reads as rewritten:

"§ 57C-1-22. *Filing, service, and copying fees.*

(a) The Secretary of State shall collect the following fees when the documents described in this subsection are delivered to the Secretary of State for filing:

Document	Fee
(1) Articles of organization	\$100.00 \$125.00
(2) Application for reserved name	10.00
(3) Notice of transfer of reserved name	10.00
(4) Application for registered name	10.00
(5) Application for renewal of registered name	10.00
(6) Limited liability company's statement of change of registered agent or registered office or both	5.00
(7) Agent's statement of change of registered office for each affected limited liability company	5.00
(8) Agent's statement of resignation	No fee
(9) Designation of registered agent or registered office or both	5.00
(10) Amendment of articles of organization	50.00
(11) Restated articles of organization without amendment of articles	10.00
(12) Restated articles of organization with amendment of articles	50.00
(13) Articles of merger	50.00
(14) Articles of dissolution	30.00
(15) Articles of revocation of dissolution	10.00
(16) Certificate of administrative dissolution	No fee
(16a) <u>Application for reinstatement following administrative dissolution</u>	100.00
(17) Certificate of reinstatement	No fee
(18) Certificate of judicial dissolution	No fee
(19) Application for certificate of authority	200.00 250.00

(20) Application for amended certificate of authority	50.00
(21) Application for certificate of withdrawal	10.00
(22) Certificate of revocation of authority to transact business	No fee
(23) Articles of correction	10.00
(24) Application for certificate of existence or authorization	5.00
(25) Annual report	200.00
(26) Any other document required or permitted to be filed by this Chapter	10.00.

(b) The Secretary of State shall collect a fee of ten dollars (\$10.00) each time process is served on the Secretary of State under this Chapter. The party to a proceeding causing service of process is entitled to recover this fee as costs if he the party prevails in the proceeding.

(c) The Secretary of State shall collect the following fees for copying, comparing, and certifying a copy of any filed document relating to a domestic or foreign limited liability company:

(1) One dollar (\$1.00) a page for copying or comparing a copy to the original; and

(2) Five dollars (\$5.00) for the certificate."

Section 5.4. G.S. 25-9-403(5) reads as rewritten:

"(5) The uniform fee for filing and indexing and for stamping a copy furnished by the secured party to show the date and place of filing for an original financing statement or for a continuation statement is ~~eight dollars (\$8.00)~~ fifteen dollars (\$15.00)."

Section 5.5. G.S. 25-9-405 reads as rewritten:

"§ 25-9-405. *Assignment of security interest; duties of filing officer; fees.*

(1) A financing statement may disclose an assignment of a security interest in the collateral described in the financing statement by indication in the financing statement of the name and address of the assignee or by an assignment itself or a copy thereof on the face or back of the statement. On presentation to the filing officer of such a financing statement the filing officer shall mark the same as provided in G.S. 25-9-403(4). The uniform fee for filing, indexing, and furnishing filing data for a financing statement so indicating an assignment is ~~eight dollars (\$8.00)~~ fifteen dollars (\$15.00).

(2) A secured party may assign of record all or part of his rights under a financing statement by the filing in the place where the original financing statement was filed of a separate written statement of assignment signed by the secured party of record and setting forth the name of the secured party of record and the debtor, the file number and also the most current file number if it has been continued and the date of filing of the financing statement and the name and address of the assignee and containing a description of the collateral assigned. A copy of the assignment is sufficient as a separate statement if it complies with the preceding sentence. On presentation to the filing officer of such a separate statement, the filing officer shall mark such separate statement with the date and hour of the filing. He shall note the assignment on the Uniform Commercial Code index of the financing statement, and in the case of a fixture filing, or a

filing covering timber to be cut, or covering minerals or the like (including oil and gas) or accounts subject to subsection (5) of G.S. 25-9-103, he shall index in the real estate index the assignment under the name of the assignor as grantor and, to the extent that the law of this State provides for indexing the assignment of a mortgage under the name of the assignee, he shall index the assignment of the financing statement under the name of the assignee. The uniform fee for filing, indexing, and furnishing filing data about such a separate statement of assignment is ~~eight dollars (\$8.00)~~, fifteen dollars (\$15.00). Notwithstanding the provisions of this subsection, an assignment of record of a security interest in a fixture contained in a mortgage effective as a fixture filing (subsection (6) of G.S. 25-9-402) may be made only by an assignment of the mortgage in the manner provided by the law of the State other than this Chapter.

(3) After the disclosure or filing of an assignment under this section, the assignee is the secured party of record."

Section 5.6. G.S. 25-9-406 reads as rewritten:

"§ 25-9-406. *Release of collateral; duties of filing officer; fees.*

A secured party of record may, by his signed statement, release all or a part of any collateral described in a filed financing statement. The statement of release is sufficient if it contains a description of the collateral being released, the name and address of the debtor, the name and address of the secured party, and the file number of the financing statement. A statement of release signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with subsection (2) of G.S. 25-9-405, including payment of the required fee. Upon presentation of such a statement of release to the filing officer he shall mark the statement with the hour and date of filing and shall note the same upon the margin of the index of the filing of the financing statement. The uniform fee for filing and noting such a statement of release is ~~eight dollars (\$8.00)~~, fifteen dollars (\$15.00)."

Section 5.7. G.S. 25-9-407 reads as rewritten:

"§ 25-9-407. *Information from filing officer.*

(1) If the person filing any financing statement, termination statement, statement of assignment or statement of release furnishes the filing officer a copy thereof, the filing officer shall upon request note upon the copy the file number and date and hour of the filing of the original and deliver or send the copy to such person.

(2) Upon request of any person, the filing officer shall issue his certificate for which he shall not be liable showing whether there is on file, on the date and hour stated therein, any presently effective financing statement naming a particular debtor and any statement of assignment thereof and if there is, giving the date and hour of filing of each such statement and the names and addresses of each secured party therein. The uniform fee for such a certificate shall be ~~eight dollars (\$8.00)~~, fifteen dollars (\$15.00). Where the Uniform Commercial Code index has been automated, the filing officer shall issue a computer printout of the index entries for a particular debtor for a fee of ~~eight dollars (\$8.00)~~, fifteen dollars (\$15.00). Upon request the

filing officer shall furnish a copy of any filed financing statement or statement of assignment for a uniform fee of one dollar (\$1.00) per page."

Section 5.8. The amendment to G.S. 55-1-22(a)(23), made by Section 5.1 of this act, becomes effective January 1, 1998, and applies to tax years ending on or after December 31, 1997. The remaining changes made by Section 5.1 of this act become effective September 1, 1997. Sections 5.2 and 5.3 of this act become effective September 1, 1997. Sections 5.4 through 5.7 of this act become effective September 1, 1997.

**PART VI. CORPORATE ANNUAL REPORTS TO BE FILED
WITH THE DEPARTMENT OF REVENUE**

Section 6.1. G.S. 55-16-22 reads as rewritten:

"§ 55-16-22. Annual report for Secretary of State report.

(a) Each Except as provided in subsections (a1) and (a2) of this section, each domestic corporation except those governed by Chapter 55B, and each foreign corporation authorized to transact business in this State, State shall deliver to the Secretary of State for filing an annual report that sets forth: an annual report to the Secretary of Revenue.

(a1) Each insurance company subject to the provisions of Chapter 58 of the General Statutes shall deliver an annual report to the Secretary of State.

(a2) A domestic corporation governed by Chapter 55B of the General Statutes is exempt from this section.

(a3) The annual report required by this section shall be in a form jointly prescribed by the Secretary of Revenue and the Secretary of State. The Secretary of Revenue shall provide the form needed to file an annual report. The annual report shall set forth all of the following:

(1) The name of the corporation and the state or country under whose law it is ~~incorporated;~~ incorporated.

(2) The street address, and the mailing address if different from the street address, of the registered office, the county in which its registered office is located, and the name of its registered agent at that office in this State, and a statement of any change of such registered office or registered agent, or ~~both;~~ both.

(3) The address and telephone number of its principal ~~office;~~ office.

(4) The names, titles, and business addresses of its principal ~~officers;~~ officers.

(4a) ~~The names and business addresses of its directors; and~~

(5) A brief description of the nature of its business.

If the information contained in the most recently filed annual report has not changed, a certification to that effect may be made instead of setting forth the information required by subdivisions (2) through (5) of this subsection.

(b) Information in the annual report must be current as of the date the annual report is executed on behalf of the corporation.

(c) ~~The annual report shall be delivered to the Secretary of State each year within 60 days immediately following the last day of the month in which the domestic corporation was incorporated or the foreign corporation received a certificate of authority in this State. Forms required for the filing of the annual report shall be mailed by the Secretary of State to the domestic or foreign corporation at its registered office for the first annual report, then to its principal office for subsequent annual reports. An annual~~

report required to be delivered to the Secretary of Revenue is due by the due date for filing the corporation's income and franchise tax returns. An extension of time to file a return is an extension of time to file an annual report. An annual report required to be delivered to the Secretary of State is due by the fifteenth day of the third month following the close of the corporation's fiscal year.

(d) If an annual report does not contain the information required by this section, the Secretary of State shall promptly notify the reporting domestic or foreign corporation in writing and return the report to it for correction. If the report is corrected to contain the information required by this section and delivered to the Secretary of State within 30 days after the effective date of notice, it is deemed to be timely filed.

(e) Amendments to any previously filed annual report may be filed with the Secretary of State at any time for the purpose of correcting, updating, or augmenting the information contained in such the annual report.

(f) Expired.

(g) When a statement of change of registered office or registered agent is filed in the annual report, the change shall become effective when the statement is received by the Secretary of State.

(h) If the Secretary of State does not receive an annual report within 120 days of the date the return is due, the Secretary of State may presume that the annual report is delinquent. This presumption may be rebutted by receipt of the annual report from the Secretary of Revenue or by evidence of delivery presented by the filing corporation."

Section 6.2. G.S. 55-1-21(a) reads as rewritten:

"(a) The Secretary of State may promulgate and furnish on request forms for: for the following:

(1) An application for a certificate of ~~existence~~; existence.

(2) A foreign corporation's application for a certificate of authority to transact business in this ~~State~~; State.

(3) A foreign corporation's application for a certificate of ~~withdrawal~~; and withdrawal.

(4) ~~The annual report.~~

If the Secretary of State so requires, use of these forms is mandatory."

Section 6.3. G.S. 55-1-28(b)(4) reads as rewritten:

"(4) That its most recent annual report required by G.S. 55-16-22 either has been delivered to the Secretary of ~~State~~; State or is not delinquent;"

Section 6.4. G.S. 55-14-20(2) reads as rewritten:

"(2) The corporation ~~does not deliver its annual report to the Secretary of State within 60 days after it is due~~; is delinquent in delivering its annual report;"

Section 6.5. G.S. 55-15-30(a)(1) reads as rewritten:

"(1) The foreign corporation ~~does not deliver its annual report to the Secretary of State within 60 days after it is due~~; is delinquent in delivering its annual report;"

Section 6.6. G.S. 55-16-01(e)(7) reads as rewritten:

"(7) Its most recent annual report delivered ~~to the Secretary of State under as required by~~ G.S. 55-16-22."

Section 6.7. G.S. 57C-2-23 reads as rewritten:

"§ 57C-2-23. Annual report for Secretary of State.

(a) Each domestic limited liability company and each foreign limited liability company authorized to transact business in this State, shall deliver to the Secretary of State for filing an annual ~~report~~ report, in a form jointly prescribed by the Secretary of Revenue and Secretary of State, that sets forth: ~~forth~~ all of the following:

- (1) The name of the limited liability or foreign limited liability company and the state or country under whose law it is ~~organized~~; organized.
- (2) The street address, and the mailing address if different from the street address, of the registered office, the county in which the registered office is located, and the name of its registered agent at that office in this State, and a statement of any change of the registered office or registered agent, or ~~both~~; both.
- (3) The address and telephone number of its principal ~~office~~; office.
- (4) The names and business addresses of its ~~managers~~; and managers.
- (5) A brief description of the nature of its business.

If the information contained in the most recently filed annual report has not changed, a certification to that effect may be made instead of setting forth the information required by subdivisions (2) through (5) of this subsection. The Secretary of State shall make available the form required to file an annual report.

(b) Information in the annual report must be current as of the date the annual report is executed on behalf of the limited liability company or the foreign limited liability company.

(c) ~~The annual report shall be delivered to the Secretary of State each year within 60 days immediately following the last day of the month in which the domestic limited liability company was organized or the foreign limited liability company received a certificate of authority in this State. Forms required for the filing of the annual report shall be mailed by the Secretary of State to the domestic or foreign limited liability company at its registered office for the first annual report, and then to its principal office for subsequent annual reports, by the fifteenth day of the fourth month following the close of the limited liability company's fiscal year.~~

(d) If an annual report does not contain the information required by this section, the Secretary of State shall promptly notify the reporting domestic or foreign limited liability company in writing and return the report to it for correction. If the report is corrected to contain the information required by this section and delivered to the Secretary of State within 30 days after the effective date of notice, it is deemed to be timely filed.

(e) Amendments to any previously filed annual report may be filed with the Secretary of State at any time for the purpose of correcting, updating, or augmenting the information contained in the annual report."

Section 6.8. G.S. 57C-3-25(a) reads as rewritten:

"(a) Any person dealing with a limited liability company or a foreign limited liability company may rely conclusively upon its most recent annual report and any amendments ~~thereto filed with~~ to it on file with the Secretary of State pursuant to G.S. 57C-2-23 as to the identity of its managers, except

to the extent the person has actual knowledge that a person identified therein as a manager is not a manager."

Section 6.9. G.S. 105-228.90(a) reads as rewritten:

"(a) Scope. -- This Article applies to Subchapters I, V, and VIII of this Chapter, to the annual report filing requirements of G.S. 55-16-22, and to inspection taxes levied under Article 3 of Chapter 119 of the General Statutes."

Section 6.10. Article 9 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-256.1. *Corporate annual report.*

A corporation that files its annual report with the Secretary must pay the amount provided in G.S. 55-1-22 when it files the report. Amounts collected under this section shall be credited to the General Fund as tax revenue. The Secretary must transmit an annual report filed with the Secretary in accordance with G.S. 55-16-22 to the Secretary of State."

Section 6.11. G.S. 105-259 reads as rewritten:

"§ 105-259. *Secrecy required of officials; penalty for violation.*

(a) Definitions. -- The following definitions apply in this section:

- (1) Employee or officer. -- The term includes a former employee, a former officer, and a current or former member of a State board or commission.
- (2) Tax information. -- Any information from any source concerning the liability of a taxpayer for a tax, as defined in G.S. 105-228.90. The term includes the following:
 - a. Information contained on a tax return, a tax report, or an application for a license for which a tax is imposed.
 - b. Information obtained through an audit of a taxpayer or by correspondence with a taxpayer.
 - c. Information on whether a taxpayer has filed a tax return or a tax report.
 - d. A list or other compilation of the names, addresses, social security numbers, or similar information concerning taxpayers.

The term does not include (i) statistics classified so that information about specific taxpayers cannot be identified or (ii) identified, (ii) an annual report required to be filed under G.S. 55-16-22 or (iii) information submitted to the Business License Information Office of the Department of Secretary of State on a master application form for various business licenses.

(b) Disclosure Prohibited. -- An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

- (1) To comply with a court order or a law.
- (2) Review by the Attorney General or a representative of the Attorney General.
- (3) Review by a tax official of another state or the Internal Revenue Commissioner of the United States to aid the state or the Commissioner in collecting a tax imposed by this State, the

- other state, or the United States if the laws of the other state or the United States allow the state or the United States to provide similar tax information to a representative of this State.
- (4) To provide a governmental agency or an officer of an organized association of taxpayers with a list of taxpayers who have paid a privilege license tax under Article 2 of this Chapter.
 - (5) To furnish to the chair of a board of county commissioners information on the county sales and use tax.
 - (6) To sort, process, or deliver tax information on behalf of the Department of Revenue.
 - (6a) To furnish the chair of a board of county commissioners a list of claimants that have received a refund of the county sales or use tax to the extent authorized in G.S. 105-164.14(f).
 - (7) To exchange information with the Division of Motor Vehicles of the Department of Transportation when the information is needed to fulfill a duty imposed on the Department of Revenue or the Division of Motor Vehicles.
 - (8) To furnish to the Department of State Treasurer, upon request, the name, address, and account and identification numbers of a taxpayer who may be entitled to property held in the Escheat Fund.
 - (9) To furnish to the Employment Security Commission the name, address, and account and identification numbers of a taxpayer when the information is requested by the Commission in order to fulfill a duty imposed under Article 2 of Chapter 96 of the General Statutes.
 - (10) Review by the State Auditor to the extent authorized in G.S. 147-64.7.
 - (11) To give a spouse who elects to file a joint tax return a copy of the return or information contained on the return.
 - (11a) To provide a copy of a return to the taxpayer who filed the return.
 - (11b) In the case of a return filed by a corporation, a partnership, a trust, or an estate, to provide a copy of the return or information on the return to a person who has a material interest in the return if, under the circumstances, section 6103(e)(1) of the Code would require disclosure to that person of any corresponding federal return or information.
 - (11c) In the case of a return of an individual who is legally incompetent or deceased, to provide a copy of the return to the legal representative of the estate of the incompetent individual or decedent.
 - (12) To contract with a financial institution for the receipt of withheld income tax payments under G.S. 105-163.6 or for the transmittal of payments by electronic funds transfer.
 - (13) To furnish the Fiscal Research Division of the General Assembly, upon request, a sample, suitable in character, composition, and size for statistical analyses, of tax returns or

other tax information from which taxpayers' names and identification numbers have been removed.

- (14) To exchange information concerning a tax imposed by Subchapter V of this Chapter with the Standards Division of the Department of Agriculture when the information is needed to administer the Gasoline and Oil Inspection Act, Article 3 of Chapter 119 of the General Statutes.
- (15) To exchange information concerning a tax imposed by Articles 2A, 2B, 2C, or 2D of this Chapter with one of the following agencies when the information is needed to fulfill a duty imposed on the agency:
 - a. The North Carolina Alcoholic Beverage Control Commission.
 - b. The Division of Alcohol Law Enforcement of the Department of Crime Control and Public Safety.
 - c. The Bureau of Alcohol, Tobacco, and Firearms of the United States Treasury Department.
- (16) To furnish to the Department of Secretary of State the name, address, tax year end, and account and identification numbers of a corporation liable for corporate income or franchise taxes or of a limited liability company liable for a corporate or a partnership tax return to enable the Secretary of State to notify the corporation or the limited liability company of the annual report filing requirement or that its articles of incorporation or articles of organization or its certificate of authority has been suspended.
- (17) To inform the Business License Information Office of the Department of Secretary of State of the status of an application for a license for which a tax is imposed and of any information needed to process the application.
- (18) To furnish to the Office of the State Controller the name, address, and account and identification numbers of a taxpayer upon request to enable the State Controller to verify statewide vendor files or track debtors of the State.
- (19) To furnish to the North Carolina Industrial Commission information concerning workers' compensation reported to the Secretary under G.S. 105-163.7.

(c) Punishment. -- A person who violates this section is guilty of a Class 1 misdemeanor. If the person committing the violation is an officer or employee, that person shall be dismissed from public office or public employment and may not hold any public office or public employment in this State for five years after the violation."

Section 6.12. Section 6.11 of this act becomes effective September 1, 1997. The remainder of this Part becomes effective January 1, 1998, and applies to tax years ending on or after December 31, 1997, in the case of corporations required to file annual reports with the Secretary of Revenue and to fiscal years ending on or after December 31, 1997, in the case of corporations and limited liability companies required to file annual reports with the Secretary of State.

Annual reports delivered to either the Secretary of State or the Secretary of Revenue after December 31, 1997, but before January 1, 1999, shall nevertheless be deemed filed with the correct State agency. The Secretary of State shall notify the Secretary of Revenue of reports erroneously filed with the Secretary of State, and the Secretary of Revenue shall notify the Secretary of State of reports erroneously filed with the Secretary of Revenue.

PART VII. EFFECTIVE DATES

Section 7.1. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 26th day of August, 1997.

Became law upon approval of the Governor at 2:15 p.m. on the 4th day of September, 1997.

S.B. 864

CHAPTER 476

AN ACT TO CONFORM THE NORTH CAROLINA TRADEMARK REGISTRATION ACT TO THE 1992 MODEL STATE TRADEMARK BILL BY MAKING VARIOUS AMENDMENTS TO THE ACT, INCLUDING REPEALING THE REQUIREMENT THAT APPLICANTS FOR A REGISTRATION INCLUDE PROOF OF USE OF THE TRADEMARK IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. G.S. 80-1 reads as rewritten:

"§ 80-1. *Definitions.*

(a) The term 'applicant' as used herein means the person filing an application for registration of a trademark under this Article, his the person's legal representatives, successors or assigns.

(b) The term 'mark' as used herein includes any trademark or service mark entitled to registration under this Article whether registered or not.

(c) The term 'person' as used herein means any individual, firm, partnership, corporation, association, union or other organization.

(d) The term 'registrant' as used herein means the person to whom the registration of a trademark under this Article is issued, his the person's legal representatives, successors or assigns.

(d1) The term 'Secretary' as used herein means the Secretary of State or the designee of the Secretary charged with the administration of this Article.

(e) The term 'service mark' as used herein means a mark used in the sale or advertising of services to identify the services of one person and distinguish them from the services of others.

(f) The term 'trademark' as used herein means any word, name, symbol, or device or any combination thereof adopted and used by a person to identify goods made, sold, or distributed by him and to distinguish them from goods made, sold, or distributed by others.

(g) The term 'use' means the bona fide use of a mark in the State of North Carolina in the ordinary course of trade, and not merely the reservation of a right to a mark. For the purposes of this Article, a mark shall be deemed to be 'used' in this State (i) on goods when it is placed in

any manner on the goods or their containers or the displays associated therewith or on the tags or labels affixed thereto, or if the nature of the goods makes such placement impractical, then on documents associated with the goods, and such the goods are currently sold or otherwise distributed in the State, and (ii) on services when it is used or displayed in the sale or advertising of services and the services are currently being rendered in this State, or are being offered and are available to be rendered in this State.

(h) A mark shall be deemed to be 'abandoned' when either of the following occurs:

- (1) When its use has been discontinued with intent not to resume its use. Intent not to resume may be inferred from circumstances. Nonuse for three consecutive years shall constitute prima facie evidence of abandonment.
- (2) When any course of conduct of the owner, including acts of omission as well as commission, causes the mark to lose its significance as a mark."

Section 2. Article 1 of Chapter 80 of the General Statutes is amended by adding a new section to read:

"§ 80-1.1. Purpose.

The purpose of this Article is to provide a system of State trademark registration and protection substantially consistent with the federal system of trademark registration and protection under the Trademark Act of 1946, 15 U.S.C. § 1051, et seq., as amended. The construction given the federal act should be examined as persuasive authority for interpreting and construing this Article."

Section 3. G.S. 80-2(5) reads as rewritten:

- "(5) Consists of a mark which (i) when applied to the goods or services of the applicant, is merely descriptive of them or merely describes one or more of the characteristics, or is deceptively misdescriptive of them, or falsely describes the nature, function, capacity, or characteristics of them, or (ii) when applied to the goods or services of the applicant, is primarily geographically descriptive or deceptively misdescriptive of them, or (iii) is primarily merely a surname; provided, however, that nothing in this subdivision (5) shall prevent the registration of a mark used in this State by the applicant which has become distinctive of the applicant's goods or services. The Secretary of State may accept as evidence that the mark has become distinctive, as applied to the applicant's goods or services, proof of continuous use thereof as a mark by the applicant in this State ~~or elsewhere~~ for the five years preceding the date of the filing of the application for registration; on which the claim of distinctiveness is made; or"

Section 4. G.S. 80-3 reads as rewritten:

"§ 80-3. Application for registration.

(a) Subject to the limitations set forth in this Article, any person who uses a mark, or any person who controls the nature and quality of the goods or services in connection with which a mark is used by another, in this State may file in the office of the Secretary of State in a format to be prescribed

by the ~~Secretary of State, Secretary,~~ an application for registration of that mark setting forth, but not limited to, the following information:

- (1) The name and business address of the person applying for such registration; and, if a corporation, the state of incorporation. If the application for registration relates to a mark used in connection with goods, the applicant shall list either the address of the applicant's principal place of business in North Carolina or a place of distribution and usage of such the goods in this State. If the application for registration relates to a mark used in connection with services, the applicant shall list a physical location at which the services are being rendered or offered in this State;
- (2) The goods or services in connection with which the mark is used and the mode or manner in which the mark is used in connection with such the goods or services and the class in which such the goods or services fall;
- (3) The date when the mark was first used anywhere and the date when it was first used in this State by the applicant, his the applicant's predecessor in business or by another under such the control of the applicant; and
- (4) A statement that the applicant is the owner of the mark mark, that the mark is in use, and that to the best of his the knowledge of the person verifying the application, no other person has registered in this State, or except as identified by applicant has the right to use such the mark in this State either in the identical form thereof or in such near resemblance thereto as to be likely likely, when applied to the goods or services of the other person, to cause confusion, or to cause mistake, or to deceive.

(b) The application shall be signed and verified by the applicant, by a partner, by a member of the firm, or an officer of the corporation or association applying for registration. In states in which a notary is not required by law to obtain a notary's stamp or seal, an original certificate of authority of the notary issued by the appropriate State agency shall be submitted with the application. If the application is signed by a person acting pursuant to a power of attorney from the applicant, an original power of attorney or a certified copy of the power of attorney shall accompany the application.

The application shall be accompanied by three specimens of the mark as currently used, ~~and proof of use or distribution in this State.~~

~~The application for registration shall be accompanied used and by a filing fee of fifty dollars (\$50.00), payable to the Secretary of State.~~ Secretary.

(c) The Secretary may require a statement as to whether an application to register the mark, or portions or a component of the mark, has been filed by the applicant or a predecessor in interest in the United States Patent and Trademark Office and, if so, the applicant shall provide any relevant information required by the Secretary, including the filing date and serial number of the application and the status of the application. If any application was finally refused registration or has otherwise not resulted in a registration, the Secretary may require the applicant to provide in the statement the reason the application was not registered. The Secretary may

also require that a drawing of the mark accompany the application in a form specified by the Secretary."

Section 5. Article 1 of Chapter 80 of the General Statutes is amended by adding a new section to read:

"§ 80-3.1. *Examination of application.*

(a) Upon filing an application for registration and payment of the application fee, the Secretary may cause the application to be examined for conformity with this Article.

(b) The applicant shall provide any additional relevant information requested by the Secretary, including a description of a design mark, and may make, or authorize the Secretary to make, any amendments to the application reasonably requested by the Secretary or deemed by the applicant to be advisable to respond to a rejection or objection.

(c) The Secretary may require the applicant to disclaim an unregistrable component of a mark otherwise registrable, and an applicant may voluntarily disclaim a component of a mark requested to be registered. No disclaimer shall prejudice or affect the applicant's or registrant's rights then existing or thereafter arising in the disclaimed matter, or the applicant's or registrant's rights of registration on another application if the disclaimed matter is distinctive of the applicant's or registrant's goods or services.

(d) The Secretary may (i) amend the application submitted by the applicant, if the applicant consents, or (ii) require a new application be submitted.

(e) If the Secretary finds that the applicant is not entitled to registration, the Secretary shall advise the applicant of the reasons the applicant is not entitled to registration. The applicant shall have a reasonable period of time, specified by the Secretary, in which to reply or to amend the application. If the applicant replies and amends the application, the Secretary shall reexamine the application. This procedure may be repeated until (i) the Secretary finally refuses registration of the mark, or (ii) the applicant fails to reply or to amend the application within the specified period. If the applicant fails to reply or to amend the application, the application shall be deemed to have been abandoned.

(f) If the Secretary finally refuses registration of the mark, the applicant may seek a writ of mandamus to compel registration. The writ may be granted, without costs to the Secretary, on proof that all the statements in the application are true and that the mark is entitled to registration.

(g) When the Secretary receives more than one application seeking registration of the same or confusingly similar marks for the same or related goods or services and processes those applications concurrently, the Secretary shall grant priority to the applications in order of filing. If a previously filed application is granted a registration, any other application shall then be rejected. A rejected applicant may bring an action for cancellation of the registration on grounds of prior or superior rights to the mark, in accordance with the provisions of this Article."

Section 6. G.S. 80-4 reads as rewritten:

"§ 80-4. *Certificate of registration.*

Upon compliance by the applicant with the requirements of this Article, the Secretary of State shall cause a certificate of registration to be issued and

delivered to the applicant. The certificate of registration shall be issued under the signature of the Secretary of State and the seal of the State, and it shall show the name and business address and, if a corporation, the state of incorporation, of the person claiming ownership of the mark, the date claimed for the first use of the mark anywhere and the date claimed for the first use of the mark in this State, the class of goods or services and a description of the goods or services on which the mark is used, a reproduction of the mark, the registration date, the registration number and the term of the registration.

Any certificate of registration issued by the Secretary of State under the provisions hereof or a copy thereof duly certified by the Secretary of State shall be admissible in evidence as competent and sufficient proof of the registration of such the mark in any action or judicial proceedings in any court of this State."

Section 7. G.S. 80-5 reads as rewritten:

"§ 80-5. *Duration and renewal.*

Registration of a mark hereunder shall be effective for a term of 10 years from the date of registration and shall be renewable for successive terms of 10 years upon application filed within six months prior to the expiration of any term. A renewal fee of thirty-five dollars (\$35.00), payable to the ~~Secretary of State~~, Secretary, shall accompany the application for renewal of the registration. Within six months following the expiration of a term of five years from the date of registration, or the last renewal of registration of the mark, the applicant shall submit a specimen showing evidence of current use of the mark and a signed statement verifying the use of such mark on a form to be furnished by the Secretary of State. Use of the form furnished by the Secretary of State is mandatory. Failure to submit this verification and specimen showing evidence of current use shall be grounds for cancellation of the registration of the mark by the Secretary of State.

The Secretary of State shall notify registrants of marks hereunder of the necessity of renewal within the year next preceding the expiration of the 10 years from the date of registration, by writing to the last known address of the registrants.

The Secretary of State shall notify registrants of marks hereunder of the necessity of submitting evidence of current use of the mark after five years from the date of registration or of the last renewal of registration of the mark, by writing to the last known address of the registrants within the year preceding the due date for such submission.

Registration of marks obtained applied for under previous acts shall be continued in force for the full 10-year term which is in effect October 1, 1991, without the necessity of submitting evidence of current use of the mark during such the term.

All applications for renewals under this Article, whether of registrations made under this Article or of registrations ~~affected effected~~ under any prior act, shall be filed with the Secretary of State in a format prescribed by the Secretary of State specifying the information called for by G.S. 80-3 and shall include a statement that the mark is still in use in this State, setting forth those goods or services recited in the registration in connection with

which the mark is still in use. The registration shall be renewed only as to such the goods and services."

Section 8. G.S. 80-6 reads as rewritten:

"§ 80-6. *Assignment*.

(a) Any mark and its registration hereunder shall be assignable with the goodwill of the business in which the mark is used, or with that part of the goodwill of the business connected with the use of and symbolized by the mark. Assignment shall be by instruments in writing duly executed and may be recorded with the Secretary of State upon the payment of a fee of twenty-five dollars (\$25.00), payable to the Secretary of State who, upon recording of the assignment, shall issue in the name of the assignee a new certificate for the remainder of the term of the registration or of the last renewal thereof. An assignment of any registration under this Article shall be void as against any subsequent purchaser for valuable consideration without notice, unless it is recorded with the Secretary of State within three months after the date thereof or prior to such subsequent purchase.

(b) Any registrant or applicant effecting a change of the name of the person to whom the mark was issued or for whom an application was filed may record a certificate of change of name of the registrant or applicant with the Secretary upon payment of the recording fee required under G.S. 80-7. The Secretary may issue a certificate of registration of an assigned application in the name of the assignee. The Secretary may issue in the name of the assignee a new certificate for the remainder of the term of the registration or for the last renewal of the registration.

(c) Other instruments that relate to a mark registered or application pending pursuant to this Article, including licenses, security interests, and mortgages, may be recorded in the discretion of the Secretary, upon payment of the recording fee required under G.S. 80-7. Instruments authorized under this subsection shall be in writing and duly executed.

(d) Acknowledgment shall be prima facie evidence of the execution of an assignment or other instrument and, when recorded by the Secretary, the record shall be prima facie evidence of execution.

(e) A photocopy of any instrument referenced in subsection (a), (b), or (c) of this section shall be accepted for recording if it is certified by any party to the instrument, or the party's successor, to be a true and correct copy of the original."

Section 9. G.S. 80-7 reads as rewritten:

"§ 80-7. *Records*.

The Secretary of State shall keep for public examination all assignments recorded under G.S. 80-6 and a record of all marks registered or renewed under this Article. The Secretary of State shall collect the following fees for copying, comparing, and certifying a copy of any filed document relating to a trademark or service mark:

- (1) Five dollars (\$5.00) for the certificate, and
- (2) One dollar (\$1.00) per page for copying or comparing a copy to the original.

The Secretary of State shall collect a recording fee of ten dollars (\$10.00) for recording name changes of corporate registrants and for recording transfers of the registration of any mark by merger or consolidation if the

articles of merger or consolidation are records not on file in the Corporate Division of the Department of the Secretary of State."

Section 10. G.S. 80-8 reads as rewritten:

"§ 80-8. *Cancellation.*

The Secretary of State shall cancel from the ~~register~~; register, in whole or in part:

- (1) Repealed by Session Laws 1991, c. 626, s. 8.
- (2) Any registration concerning which the Secretary of State shall receive a voluntary request for cancellation thereof from the registrant or the assignee of ~~record~~; record.
- (3) All registrations granted under this Article and not renewed in accordance with the provisions ~~hereof~~; hereof.
- (4) Any registration concerning which a court of competent jurisdiction shall ~~find~~ find:
 - a. That the registered mark has been abandoned or has become incapable of serving as a mark;
 - b. That the registrant is not the owner of the mark;
 - c. That the registration was granted improperly;
 - d. That the registration was obtained fraudulently;
 - e. That the registration is for a mark that is or has become the generic name for the goods or services for which it has been registered or for a portion of the goods or services for which it has been registered;
 - f. That the registration was obtained by means of materially false statements in the application for registration; or
 - g. That the registration is so similar to another mark used in the State as to be likely to cause confusion or mistake or to deceive if (i) the other mark was registered by another person in the United States Patent and Trademark Office prior to the date of the applicant's first use of the mark that is the subject of the application for registration, and (ii) the other mark has not been abandoned. However, if the registrant proves that the registrant is the owner of a concurrent registration of a mark in the United States Patent and Trademark Office covering an area including the entire State, the registration shall not be cancelled.
- (5) Any registration when a court of competent jurisdiction shall order cancellation thereof; thereof.
- (6) ~~Any registration for which compliance with the five-year evidence of use requirement of G.S. 80-5 has not been effected; or~~
- (7) ~~Any registration which was obtained by means of false statements in the application for registration."~~

Section 11. G.S. 80-9 reads as rewritten:

"§ 80-9. *Classification.*

~~The following general classes of goods and services are established~~ The Secretary shall establish a classification of goods and services for convenience of administration of this Article, but not to limit or extend the applicant's or registrant's rights, and a single application for registration of a mark may include any or all goods upon which, or services for which, the

~~mark is actually being used comprised in a single class, but in no event shall a single application include goods or services upon or for which the mark is being used which fall within different classes of goods or services. When a single application includes goods or services that fall within multiple classes, the Secretary may require payment of a fee for each class. The Secretary of State shall have the right to~~ may amend the classes herein established to conform ~~the same~~ them to the classification established for the United States Patent and Trademark Office as from time to time amended.

The said classes are as follows:

(a) Goods.—

1. Raw or partly prepared materials.
2. Receptacles.
3. Baggage, animal equipments, portfolios, and pocketbooks.
4. Abrasives and polishing materials.
5. Adhesives.
6. Chemicals and chemical compositions.
7. Cordage.
8. Smokers' articles, not including tobacco products.
9. Explosives, firearms, equipments, and projectiles.
10. Fertilizers.
11. Inks and inking materials.
12. Construction materials.
13. Hardware and plumbing and steam-fitting supplies.
14. Metals and metal castings and forgings.
15. Oils and greases.
16. Protective and decorative coatings.
17. Tobacco products.
18. Medicines and pharmaceutical preparations.
19. Vehicles.
20. Linoleum and oiled cloth.
21. Electrical apparatus, machines, computer hardware, video tapes, and supplies.
22. Games, toys, and sporting goods.
23. Cutlery, machinery, and tools, and parts thereof.
24. Laundry appliances and machines.
25. Locks and safes.
26. Measuring and scientific appliances and computer software.
27. Horological instruments.
28. Jewelry and precious-metal ware.
29. Brooms, brushes, and dusters.
30. Crockery, earthenware, and porcelain.
31. Filters and refrigerators.
32. Furniture and upholstery.
33. Glassware.
34. Heating, lighting, and ventilating apparatus.
35. Belting, hose, machinery packing, and nonmetallic tires.
36. Musical instruments and supplies.
37. Paper and stationery.

38. ~~Prints and publications.~~
39. ~~Clothing.~~
40. ~~Fancy goods, furnishings, and notions.~~
41. ~~Canes, parasols, and umbrellas.~~
42. ~~Knitted, netted and textile fabrics, and substitutes therefor.~~
43. ~~Thread and yarn.~~
44. ~~Dental, medical, and surgical appliances.~~
45. ~~Soft drinks and carbonated waters.~~
46. ~~Foods and ingredients of foods.~~
47. ~~Wines.~~
48. ~~Malt beverages and liquors.~~
49. ~~Distilled alcoholic liquors.~~
50. ~~Merchandise not otherwise classified.~~
51. ~~Cosmetics and toilet preparations.~~
52. ~~Detergents and soaps.~~

(b) ~~Services.~~—

100. ~~Miscellaneous.~~
101. ~~Advertising and business.~~
102. ~~Insurance and financial.~~
103. ~~Construction and repair.~~
104. ~~Communications.~~
105. ~~Transportation and storage.~~
106. ~~Material treatment.~~
107. ~~Education and entertainment."~~

Section 12. G.S. 80-10 reads as rewritten:

"§ 80-10. *Fraudulent registration.*

Any person who shall for himself, or on behalf of any other person, procure the filing or registration of any mark in the office of the Secretary of State under the provisions hereof, by knowingly making any false or fraudulent representation or declaration, verbally or in writing, or by any other fraudulent means, shall be liable to pay all damages sustained in consequence of such filing or registration, to be recovered by or on behalf of the party injured thereby in any court of competent jurisdiction."

Section 13. This act takes precedence over all statutes that are inconsistent with this act or that contradict this act, effective October 1, 1997. The Secretary of State shall advise the General Statutes Commission of any statutes that should be amended or repealed to conform to this act.

Section 14. This act becomes effective October 1, 1997, and applies to acts occurring on or after that date. This act shall not affect any suit, proceeding, or appeal pending on October 1, 1997.

In the General Assembly read three times and ratified this the 26th day of August, 1997.

Became law upon approval of the Governor at 2:17 p.m. on the 4th day of September, 1997.

H.B. 1137

CHAPTER 477

AN ACT TO CREATE A SPECIAL LICENSE PLATE TO PROMOTE
SOIL AND WATER CONSERVATION AND TO PROVIDE THAT A

PORTION OF THE SALES REVENUE GOES TO FUND WATER QUALITY AND ENVIRONMENTAL EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-79.4(b) is amended by adding a new subdivision, to be inserted by the Revisor of Statutes in the appropriate alphabetical place, to read:

"() Soil and Water Conservation. -- Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear a phrase and picture appropriate to the subject of water quality and environmental protection in North Carolina."

Section 2. G.S. 20-79.7(a) reads as rewritten:

"(a) **Fees.** -- Upon request, the Division shall provide and issue free of charge one registration plate to a recipient of the Congressional Medal of Honor, a 100% disabled veteran, and an ex-prisoner of war. All other special registration plates are subject to the regular motor vehicle registration fee in G.S. 20-87 or G.S. 20-88 plus an additional fee in the following amount:

<u>Special Plate</u>	<u>Additional Fee Amount</u>
Historical Attraction	\$30.00
State Attraction	\$30.00
Collegiate Insignia	\$25.00
Olympic Games	\$25.00
Special Olympics	\$25.00
<u>Soil and Water Conservation</u>	<u>\$20.00</u>
<u>Wildlife Resources</u>	<u>\$20.00</u>
Personalized	\$20.00
Active Member of the National Guard	None
All Other Special Plates	\$10.00."

Section 3. G.S. 20-79.7(b) reads as rewritten:

"(b) **Distribution of Fees.** -- The Special Registration Plate Account and the Collegiate and Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in subsection (a) among the Special Registration Plate Account (SRPA), the Collegiate and Cultural Attraction Plate Account (CCAPA), and the Natural Heritage Trust Fund (NHTF), which is established under G.S. 113-77.7, as follows:

<u>Special Plate</u>	<u>SRPA</u>	<u>CCAPA</u>	<u>NHTF</u>
Historical Attraction	\$10	\$20	0
In-State Collegiate Insignia	\$10	\$15	0
Out-of-state Collegiate Insignia	\$10	0	\$15
Personalized	\$10	0	\$10
Special Olympics	\$10	\$15	0
Olympic Games	\$10	\$15	0
State Attraction	\$10	\$20	0
<u>Soil and Water Conservation</u>	<u>\$10</u>	<u>\$10</u>	<u>0</u>
<u>Wildlife Resources</u>	<u>\$10</u>	<u>\$10</u>	<u>0</u>
All other Special Plates	\$10	0	0."

Section 4. G.S. 20-81.12 is amended by adding a new subsection to read:

"(b5) Soil and Water Conservation Plates. -- The Division must receive 300 or more applications for a soil and water conservation plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of the soil and water conservation plates to the Soil and Water Conservation Account established in G.S. 143B-297.1."

Section 5. Part 7 of Article 7 of Chapter 143B is amended by adding a new section to read:

"§ 143B-297.1. Soil and Water Conservation Account."

The Soil and Water Conservation Account is established as a nonreverting account within the Department of Environment, Health, and Natural Resources. The Account consists of revenue credited to the Account from the sale of soil and water conservation special license plates. The Commission shall use the revenue from the account to fund environmental education and water quality education in North Carolina."

Section 6. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 26th day of August, 1997.

Became law upon approval of the Governor at 2:19 p.m. on the 4th day of September, 1997.

S.B. 264

CHAPTER 478

AN ACT TO PROVIDE IMMUNITY TO EMPLOYERS WHO DISCLOSE INFORMATION ABOUT AN EMPLOYEE WHEN THE EMPLOYER IS PROVIDING A REFERENCE.

The General Assembly of North Carolina enacts:

Section 1. Article 43B of Chapter 1 of the General Statutes is amended by adding a new section to read:

"§ 1-539.12. Immunity from civil liability for employers disclosing information."

(a) An employer who discloses information about a current or former employee's job history or job performance to a prospective employer of the current or former employee upon request of the prospective employer or upon request of the current or former employee is immune from civil liability and is not liable in civil damages for the disclosure or any consequences of the disclosure. This immunity shall not apply when a claimant shows by a preponderance of the evidence both of the following:

(1) The information disclosed by the current or former employer was false.

(2) The employer providing the information knew or reasonably should have known that the information was false.

(b) For purposes of this section, 'job performance' includes:

(1) The suitability of the employee for re-employment;

(2) The employee's skills, abilities, and traits as they may relate to suitability for future employment; and

(3) In the case of a former employee, the reason for the employee's separation.

(c) The provisions of this section apply to any employee, agent, or other representative of the current or former employer who is authorized to provide and who provides information in accordance with the provisions of this section. For the purposes of this section, 'employer' also includes a job placement service but does not include a private personnel service as defined in G.S. 95-47.1 or a job listing service as defined in G.S. 95-47.19 except as provided hereinafter. The provisions of this section apply to a private personnel service as defined in G.S. 95-47.1 and a job listing service as defined in G.S. 95-47.19 only to the extent that the service conveys information derived from credit reports, court records, educational records, and information furnished to it by the employee or prior employers and the service identifies the source of the information.

(d) This section does not affect any privileges or immunities from civil liability established by another section of the General Statutes or available at common law."

Section 2. This act becomes effective October 1, 1997, and applies only to causes of action arising on or after that date.

In the General Assembly read three times and ratified this the 26th day of August, 1997.

Became law upon approval of the Governor at 2:20 p.m. on the 4th day of September, 1997.

H.B. 469

CHAPTER 479

AN ACT TO CREATE A REINSTATEMENT FEE FOR PERMITS SUSPENDED FOR FAILURE TO PAY PERMIT FEES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130A-248(d) reads as rewritten:

"(d) The Department shall charge each establishment subject to this section, except nutrition programs for the elderly administered by the Division of Aging of the Department of Human Resources, establishments that prepare and sell meat food products or poultry products, and public school cafeterias, an annual fee of twenty-five dollars (\$25.00). The Department shall charge an additional twenty-five dollar (\$25.00) late payment fee to any establishment that fails to pay the required fee within 45 days after billing by the Department. The Department may, in accordance with G.S. 130A-23, ~~suspend or revoke~~ the permit of an establishment that fails to pay the required fee within 60 days after billing by the Department. The Department shall charge a reinstatement fee of one hundred fifty dollars (\$150.00) to any establishment that requests reinstatement of its permit after the permit has been suspended. The Commission shall adopt rules to implement this subsection. Fees collected under this subsection shall be used for State and local public health food, lodging, and institution sanitation programs and activities. No more than thirty-three and one-third percent (33-1/3%) of the fees collected may be used to support State health programs and activities."

Section 2. This act becomes effective July 1, 1998.

In the General Assembly read three times and ratified this the 25th day of August, 1997.

Became law upon approval of the Governor at 2:22 p.m. on the 4th day of September, 1997.

S.B. 973

CHAPTER 480

AN ACT TO REQUIRE HEALTH BENEFIT PLANS TO PROVIDE CERTAIN INFORMATION.

The General Assembly of North Carolina enacts:

Section 1. Article 3 of Chapter 58 of the General Statutes is amended by adding the following new section to read:

"§ 58-3-190. Managed care reporting and disclosure requirements.

(a) Each health benefit plan shall annually, on or before the first day of March of each year, file in the office of the Commissioner the following information, to the extent applicable:

- (1) The number of and reasons for complaints received from plan participants regarding medical treatment;
- (2) The number of participants who terminated coverage under the plan for any reason;
- (3) The number of provider contracts that were terminated in the preceding year and the reasons for termination. This information shall include the number of providers leaving the plan and the number of new providers;
- (4) Utilization data that includes statistics relating to the utilization, quality, availability, and accessibility of services, as defined by the Commissioner; and
- (5) Aggregate financial compensation data, including the percentage of providers paid under a capitation arrangement, discounted fee-for-service or salary, the services included in the capitation payment, and the range of compensation paid by withhold or incentive payments. This information shall be submitted on a form prescribed by the Commissioner.

The name, or group or institutional name, of an individual provider may not be disclosed pursuant to this subsection. No civil liability shall arise from compliance with the provisions of this subsection, provided that the acts or omissions are made in good faith and do not constitute gross negligence, willful or wanton misconduct, or intentional wrongdoing.

(b) Disclosure requirements. -- Each health benefit plan shall provide the following applicable information to plan participants and bona fide prospective participants upon request:

- (1) The evidence of coverage (G.S. 58-67-50), subscriber contract (G.S. 58-65-60, 58-65-140), health insurance policy (G.S. 58-51-80, 58-50-125, 58-50-55), or the contract and benefit summary of any other type of health benefit plan;
- (2) An explanation of the utilization review criteria and treatment protocol under which treatments are provided for conditions

specified by the prospective participant. This explanation shall be in writing if so requested;

- (3) If denied a recommended treatment, written reasons for the denial and an explanation of the utilization review criteria or treatment protocol upon which the denial was based;
- (4) The plan's restrictive formularies or prior approval requirements for obtaining prescription drugs, whether a particular drug or therapeutic class of drugs is excluded from its formulary, and the circumstances under which a nonformulary drug may be covered; and
- (5) The plan's procedures and medically based criteria for determining whether a specified procedure, test, or treatment is experimental.

(c) For purposes of this section, 'health benefit plan' or 'plan' means (i) health maintenance organization (HMO) subscriber contracts and (ii) insurance company or hospital and medical service corporation preferred provider benefit plans in which utilization review or quality management programs are used to manage the provision of covered health care services, and enrollees are given incentives through benefit differentials to limit the receipt of covered health care services to those provided by participating providers."

Section 2. This act becomes effective October 1, 1997.

In the General Assembly read three times and ratified this the 25th day of August, 1997.

Became law upon approval of the Governor at 2:24 p.m. on the 4th day of September, 1997.

S.B. 583

CHAPTER 481

AN ACT TO REQUIRE PHYSICIANS TO COMPLETE NOT TO EXCEED ONE HUNDRED FIFTY HOURS OF CONTINUING EDUCATION, TO REQUIRE PHYSICIANS TO REGISTER ANNUALLY WITH THE NORTH CAROLINA MEDICAL BOARD, TO AMEND THE LAW GOVERNING REPORTING OF SUSPENSIONS OF PHYSICIAN PRIVILEGES WITH RESPECT TO COMPLETION OF MEDICAL RECORDS, TO MAKE A TECHNICAL CHANGE IN THE PRACTICE OF MEDICINE ACT, AND TO IMPROVE NORTH CAROLINA'S PUBLIC HEALTH SERVICE CAPACITY BY AUTHORIZING APPROVAL OF NONPROFIT HEALTH CARE FACILITIES TO SERVE SOME OF THE DENTAL NEEDS OF LOW-INCOME POPULATIONS AND BY AUTHORIZING THE EMPLOYMENT OF DENTISTS, DENTAL STUDENTS, AND DENTAL INTERNS BY THOSE FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-14(a) reads as rewritten:

"(a) The Board shall have the power to deny, annul, suspend, or revoke a license, or other authority to practice medicine in this State, issued by the Board to any person who has been found by the Board to have committed any of the following acts or conduct, or for any of the following reasons:

- (1) Immoral or dishonorable conduct.
- (2) Producing or attempting to produce an abortion contrary to law.
- (3) Made false statements or representations to the Board, or who has willfully concealed from the Board material information in connection with his an application for a license.
- (4) Repealed by Session Laws 1977, c. 838, s. 3.
- (5) Being unable to practice medicine with reasonable skill and safety to patients by reason of illness, drunkenness, excessive use of alcohol, drugs, chemicals, or any other type of material or by reason of any physical or mental abnormality. The Board is empowered and authorized to require a physician licensed by it to submit to a mental or physical examination by physicians designated by the Board before or after charges may be presented against him, the physician, and the results of the examination shall be admissible in evidence in a hearing before the Board.
- (6) Unprofessional conduct, including, but not limited to, departure from, or the failure to conform to, the standards of acceptable and prevailing medical practice, or the ethics of the medical profession, irrespective of whether or not a patient is injured thereby, or the committing of any act contrary to honesty, justice, or good morals, whether the same is committed in the course of his the physician's practice or otherwise, and whether committed within or without North Carolina. The Board shall not revoke the license of or deny a license to a person solely because of that person's practice of a therapy that is experimental, nontraditional, or that departs from acceptable and prevailing medical practices unless, by competent evidence, the Board can establish that the treatment has a safety risk greater than the prevailing treatment or that the treatment is generally not effective.
- (7) Conviction in any court of a crime involving moral turpitude, or the violation of a law involving the practice of medicine, or a conviction of a felony; provided that a felony conviction shall be treated as provided in subsection (c) of this section.
- (8) By false representations has obtained or attempted to obtain practice, money or anything of value.
- (9) Has advertised or publicly professed to treat human ailments under a system or school of treatment or practice other than that for which he the physician has been educated.
- (10) Adjudication of mental incompetency, which shall automatically suspend a license unless the Board orders otherwise.
- (11) Lack of professional competence to practice medicine with a reasonable degree of skill and safety for patients. In this connection the Board may consider repeated acts of a physician indicating his the physician's failure to properly treat a patient. The Board may, upon reasonable grounds, require a physician to submit to inquiries or examinations, written or oral, by members of the Board or by other physicians licensed to practice medicine in this State, as the Board deems necessary to determine the professional qualifications of such licensee.

- (12) Promotion of the sale of drugs, devices, appliances or goods for a patient, or providing services to a patient, in such a manner as to exploit the patient, and upon a finding of the exploitation, the Board may order restitution be made to the payer of the bill, whether the patient or the insurer, by the physician; provided that a determination of the amount of restitution shall be based on credible testimony in the record.
- (13) Having a license to practice medicine or the authority to practice medicine revoked, suspended, restricted, or acted against or having a license to practice medicine denied by the licensing authority of any jurisdiction. For purposes of this subdivision, the licensing authority's acceptance of a license to practice medicine voluntarily relinquished by a physician or relinquished by stipulation, consent order, or other settlement in response to or in anticipation of the filing of administrative charges against the physician's license, is an action against a license to practice medicine.
- (14) The failure to respond, within a reasonable period of time and in a reasonable manner as determined by the Board, to inquiries from the Board concerning any matter affecting the license to practice medicine.
- (15) The failure to complete an amount not to exceed 150 hours of continuing medical education during any three consecutive calendar years pursuant to rules adopted by the Board.

For any of the foregoing reasons, the Board may deny the issuance of a license to an applicant or revoke a license issued to ~~him~~, a physician, may suspend such a license for a period of time, and may impose conditions upon the continued practice after such period of suspension as the Board may deem advisable, may limit the accused physician's practice of medicine with respect to the extent, nature or location of ~~his~~ the physician's practice as the Board deems advisable. The Board may, in its discretion and upon such terms and conditions and for such period of time as it may prescribe, restore a license so revoked or rescinded, except that no license that has been revoked shall be restored for a period of two years following the date of revocation."

Section 2. G.S. 90-14.13 reads as rewritten:

"§ 90-14.13. *Reports of disciplinary action by health care institutions; immunity from liability.*

The chief administrative officer of every licensed hospital or other health care institution, including Health Maintenance Organizations, as defined in G.S. 58-67-5, preferred providers, as defined in G.S. 58-50-50, and all other provider organizations that issue credentials to physicians who practice medicine in the State, shall, after consultation with the chief of staff of ~~such~~ that institution, report to the Board any revocation, suspension, or limitation of a physician's privileges to practice in that institution. A hospital is not required to report the suspension of a physician's privileges for failure to timely complete medical records unless the suspension is the third within the calendar year for failure to timely complete medical records. Upon reporting the third suspension, the hospital shall also report the previous two

~~suspensions. Each such~~ The institution shall also report to the Board resignations from practice in that institution by persons licensed under this Article. The Board shall report all violations of this subsection known to it to the licensing agency for the institution involved.

Any licensed physician who does not possess professional liability insurance shall report to the Board any award of damages or any settlement of any malpractice complaint affecting his or her practice within 30 days of the award or settlement.

The chief administrative officer of each insurance company providing professional liability insurance for physicians who practice medicine in North Carolina, the administrative officer of the Liability Insurance Trust Fund Council created by G.S. 116-220, and the administrative officer of any trust fund operated by a hospital authority, group, or provider shall report to the Board within 30 days:

- (1) Any award of damages or settlement affecting or involving a physician it insures, or
- (2) Any cancellation or nonrenewal of its professional liability coverage of a physician, if the cancellation or nonrenewal was for cause.

The Board may request details about any action and the officers shall promptly furnish the requested information. The reports required by this section are privileged and shall not be open to the public. The Board shall report all violations of this paragraph to the Commissioner of Insurance.

Any person making a report required by this section shall be immune from any criminal prosecution or civil liability resulting therefrom unless such person knew the report was false or acted in reckless disregard of whether the report was false."

Section 3. G.S. 90-15.1 reads as rewritten:

"§ 90-15.1. (Effective January 1, 1998) *Registration every year with Board.*

Every person licensed to practice medicine by the North Carolina Medical Board ~~shall, prior to January 31 of each year, shall register with annually with the Board within 30 days of the person's birthday. the Board.~~ A person who registers with the Board shall report to the Board the person's name and office and residence address and any other information required by the Board, and shall pay a registration fee fixed by the Board not in excess of one hundred dollars (\$100.00). A physician who is not actively engaged in the practice of medicine in North Carolina and who does not wish to register the license may direct the Board to place the license on inactive status. For purposes of annual registration, the Board shall use a simplified registration form which allows registrants to confirm information on file with the Board. A physician who fails to register by January 31 as required by this section shall pay an additional fee of twenty dollars (\$20.00) to the Board. The license of any physician who fails to register and said failure who continues remains unregistered for a period of 30 days after certified notice of said failure, the failure is automatically suspended-inactive. A person whose license is inactive shall not practice medicine in North Carolina nor be required to pay the annual registration fee. Upon payment of all accumulated fees and penalties, the license of the physician may be reinstated, subject to the Board requiring the physician to appear

before the Board for an interview and to comply with other licensing requirements. The penalty may not exceed the maximum fee for a license under G.S. 90-13."

Section 4. G.S. 90-16 reads as rewritten:

"§ 90-16. Board to keep record; publication of names of licentiates; transcript as evidence; receipt of evidence concerning treatment of patient who has not consented to public disclosure.

The North Carolina Medical Board shall keep a regular record of its proceedings in a book kept for that purpose, together with the names of the members of the Board present, the names of the applicants for license, and other information as to its actions. The North Carolina Medical Board shall cause to be entered in a separate book the name of each applicant to whom a license is issued to practice medicine or surgery, along with any information pertinent to such issuance. The North Carolina Medical Board shall publish the names of those licensed in three daily newspapers published in the State of North Carolina, within 30 days after granting the same. A transcript of any such entry in the record books, or certificate that there is not entered therein the name and proficiency or date of granting such license of a person charged with the violation of the provisions of this Article, certified under the hand of the secretary and the seals of the ~~Board of Medical Examiners of the State of North Carolina~~, North Carolina Medical Board, shall be admitted as evidence in any court of this State when it is otherwise competent.

The Board may in a closed session receive evidence involving or concerning the treatment of a patient who has not expressly or impliedly consented to the public disclosure of such treatment as may be necessary for the protection of the rights of such patient or of the accused physician and the full presentation of relevant evidence. All records, papers and other documents containing information collected and compiled by the Board, or its members or employees as a result of investigations, inquiries or interviews conducted in connection with a licensing or disciplinary matter shall not be considered public records within the meaning of Chapter 132 of the General Statutes; provided, however, that any notice or statement of charges against any licensee, or any notice to any licensee of a hearing in any proceeding shall be a public record within the meaning of Chapter 132 of the General Statutes, notwithstanding that it may contain information collected and compiled as a result of any such investigation, inquiry or interview; and provided, further, that if any such record, paper or other document containing information theretofore collected and compiled by the Board, as hereinbefore provided, is received and admitted in evidence in any hearing before the Board, it shall thereupon be a public record within the meaning of Chapter 132 of the General Statutes.

In any proceeding before the Board, in any record of any hearing before the Board, and in the notice of the charges against any licensee (notwithstanding any provision herein to the contrary) the Board may withhold from public disclosure the identity of a patient who has not expressly or impliedly consented to the public disclosure of treatment by the accused physician."

Section 5. G.S. 90-29(c)(4) reads as rewritten:

- "(4) The practice of dentistry in dental schools or colleges in this State approved by the North Carolina State Board of Dental Examiners by students enrolled in such schools or colleges as candidates for a doctoral degree in dentistry when such practice is performed as a part of their course of instruction and is under direct supervision of a dentist who is either duly licensed in North Carolina or qualified under subdivision (3) above as a teacher; additionally, the practice of dentistry by such students at State or county institutions with resident populations, hospitals, State or county health departments, area health education ~~centers~~ centers, nonprofit health care facilities serving low-income populations and approved by the State Health Director or his designee and approved by the Board of Dental Examiners, and State or county-owned nursing homes; subject to review and approval or disapproval by the said Board of Dental Examiners when in the opinion of the dean of such dental school or college or his designee, the students' dental education and experience are adequate therefor, and such practice is a part of the course of instruction of such students, is performed under the direct supervision of a duly licensed dentist acting as a teacher or instructor, and is without remuneration except for expenses and subsistence all as defined and permitted by the rules and regulations of said Board of Dental Examiners. Should the Board disapprove a specific program, the Board shall within 90 days inform the dean of its actions. Nothing herein shall be construed to permit the teaching of, delegation to or performance by any dental hygienist, dental assistant, or other auxiliary relative to any program of extramural rotation, of any function not heretofore permitted by the Dental Practice Act, the Dental Hygiene Act or by the rules and regulations of the Board;"

Section 6. G.S. 90-29(c) is amended by adding the following new subdivision:

- "(14) The operation of a nonprofit health care facility serving low-income populations and approved by the State Health Director or his designee and approved by the North Carolina State Board of Dental Examiners."

Section 7. G.S. 90-29.4(3) reads as rewritten:

- "(3) The holder of a valid intern permit may practice dentistry only (i) as an employee in a hospital, sanatorium, or a like institution which is licensed or approved by the State of North Carolina and approved by the North Carolina State Board of Dental Examiners; (ii) as an employee of a nonprofit health care facility serving low-income populations and approved by the State Health Director or his designee and approved by the North Carolina State Board of Dental Examiners; or (ii) (iii) as an employee of the State of North Carolina or an agency or political subdivision thereof, or any other governmental entity within the State of North Carolina, when said employment is approved by the North Carolina State Board of Dental Examiners;"

Section 8. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 25th day of August, 1997.

Became law upon approval of the Governor at 2:26 p.m. on the 4th day of September, 1997.

S.B. 253

CHAPTER 482

AN ACT TO REQUIRE THE REGISTRATION OF TELEPHONIC SELLERS IN NORTH CAROLINA, AND TO MAKE THE OFFERING OF TELEPHONE SALES RECOVERY SERVICES A CRIMINAL OFFENSE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 66 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 33.

"Telephonic Seller Registration and Bond Requirement.

"§ 66-260. Definitions.

As used in this Article, unless the context requires otherwise:

- (1) 'Gift or prize' means any premium, bonus, award, or any other thing of value.
- (2) 'Item' means any good or any service. 'Item' includes coupon books, vouchers, or certificates that are to be used with businesses other than the seller's business.
- (3) 'Owner' means a person who owns or controls ten percent (10%) or more of the equity of, or otherwise has a claim to ten percent (10%) or more of the net income of, a telephonic seller.
- (4) 'Person' includes any individual, firm, association, corporation, partnership, joint venture, or any other business entity.
- (5) 'Principal' means an owner, an executive officer of a corporation, a general partner of a partnership, a sole proprietor of a sole proprietorship, a trustee of a trust, or any other individual with similar supervisory functions with respect to any person.
- (6) 'Purchaser' or 'prospective purchaser' means a person who is solicited to become obligated to a telephonic seller or to make any donation or gift to any person represented by the telephonic seller.
- (7) 'Room operator' means any principal, employee, or agent responsible for the operational management and supervision of facilities from which telephonic sales calls are made or received.
- (8) 'Salesperson' means any individual employed, appointed, or authorized by a telephonic seller, whether referred to by the telephonic seller as an agency, representative, or independent contractor, who attempts to solicit or solicits a sale on behalf of the telephonic seller.
- (9) 'Secretary' means the Office of the Secretary of State.

- (10) 'Telephone solicitation' or 'attempted telephone solicitation' means any telephonic communication designed to persuade any person to purchase goods or services, to enter a contest, or to contribute to a charity or a person represented to be a charity, regardless of whether the telephone call initiating the solicitation is placed by the (i) telephonic seller or (ii) a person responding to any unsolicited notice or notices sent or provided by or on behalf of the seller, which notice or notices represent to the recipient that he or she has won a gift or prize, that the recipient may obtain or qualify for credit by contacting the seller, or that the seller has buyers interested in purchasing the recipient's property.
- (11) 'Telephonic seller' or 'seller' means a person who, directly or through salespersons, causes a telephone solicitation or attempted telephone solicitation to occur. 'Telephonic seller' and 'seller' do not include any of the following:
- a. A securities 'dealer' within the meaning of G.S. 78A-2(2) or a person excluded from the definition of 'dealer' by that provision: a 'salesman' within the meaning of G.S. 78A-2(9); an 'investment adviser' within the meaning of G.S. 78C-2(1) or a person excluded from the definition of 'investment adviser' by that provision; or an 'investment adviser representative' within the meaning of G.S. 78C-2(3); provided that such persons shall be excluded from the terms 'telephonic seller' and 'seller' only with respect to activities regulated by Chapters 78A and 78C.
 - b. Any person conducting sales or solicitations on behalf of a licensee of the Federal Communications Commission or holder of a franchise or certificate of public convenience and necessity from the North Carolina Utilities Commission.
 - c. Any insurance agent or broker who is properly licensed by the Department of Insurance and who is soliciting within the scope of the agent's or broker's license or any employee or independent contractor of an insurance company licensed by the Department of Insurance conducting sales or solicitations on behalf of that company.
 - d. Any federally chartered bank, savings institution, or credit union or any bank, savings institution, or credit union properly licensed by the State or subject to federal regulating authorities.
 - e. Any organization that is exempt under section 501(c)(3) of the Internal Revenue Code of 1986 or any successor section, or that is organized exclusively for one or more of the purposes specified in section 501(c)(3) of the Internal Revenue Code of 1986 or any successor section and that upon dissolution shall distribute its assets to an entity that is exempt under section 501(c)(3) of the Internal Revenue Code of 1986 or any successor section, the United States, or a state; any 'charitable solicitor' properly licensed under Article 2 of

Chapter 131F of the General Statutes, or any person exempt from Chapter 131F of the General Statutes under G.S. 131F-3.

- f. A person who periodically issues and delivers catalogs to potential purchasers and the catalog:
 - 1. Includes a written description or illustration and the sales price of each item offered for sale;
 - 2. Includes at least 24 full pages of written material or illustrations;
 - 3. Is distributed in more than one state; and
 - 4. Has an annual circulation of not less than 250,000 customers.
- g. A person engaging in a commercial telephone solicitation where the solicitation is an isolated transaction and not done in the course of a pattern of repeated transactions of a like nature.
- h. A person primarily soliciting the sale of a newspaper of general circulation, a publisher of a magazine or other periodical of general circulation, or an agent of such a publisher acting pursuant to a written agency agreement.
- i. A person soliciting the sale of services provided by a cable television system operating under the authority of a local franchise.
- j. Any passenger airline licensed by the Federal Aviation Administration.
- k. Any person holding a real estate broker's or sales agent's license under Chapter 93A of the General Statutes and who is soliciting within the scope of the broker's or agent's license.
- l. Any person soliciting a transaction regulated by the Commodities Futures Trading Commission, provided the person is registered or temporarily licensed by the Commodities Futures Trading Commission under the Commodity Exchange Act, 7 U.S.C. § 1, et seq.
- m. Any person soliciting a purchase from a business, provided the person soliciting makes reasonable efforts to ensure that the person solicited has actual authority to bind the business to a purchase agreement.
- n. A foreign corporation, limited liability company, or limited partnership that has obtained and maintained a certificate of authority to transact business or conduct affairs in this State pursuant to Chapter 55, 55A, or 57C or Article 5 of Chapter 59 of the General Statutes and that only transacts business or conducts affairs in this State using the name set forth in the certificate of authority.
- o. An issuer or a subsidiary of an issuer that has a class of securities which is subject to section 12 of the Securities Exchange Act of 1934 (15 U.S.C. § 781) and which is either registered or exempt from registration under paragraph (A), paragraph (B), paragraph (C), paragraph (E), paragraph (F),

paragraph (G), or paragraph (H) of subsection (g)(2) of that section.

- p. A person soliciting the sale of food, seeds, or plants when a sale does not involve an amount in excess of one hundred dollars (\$100.00) directed to a single address.
- q. A person soliciting:

 - 1. Without intent to complete or obtain provisional acceptance of a sale during the telephone solicitation;
 - 2. Who does not make the major sales presentation during the telephone solicitation but arranges for the major sales presentation to be made at a later face-to-face meeting between the salesperson and the purchaser;
 - 3. Who does not cause an individual to go to the prospective purchaser to collect payment for the purchase or to deliver any item purchased directly following the telephone solicitation; or
 - 4. Who offers to send the purchaser descriptive literature and does not require payment prior to the purchaser's review of the descriptive literature.
- r. A person soliciting the purchase of contracts for the maintenance or repair of items previously purchased from the person making the solicitation or on whose behalf the solicitation is made.
- s. A book, video, recording, or multimedia club or contractual plan or arrangement:

 - 1. Under which the seller provides the consumer with a form with which the consumer can instruct the seller not to ship the offered merchandise.
 - 2. Which is regulated by the Federal Trade Commission trade regulation concerning 'use of negative option plans by sellers in commerce'.
 - 3. Which provides for the sale of books, recordings, multimedia products or goods, or videos which are not covered under paragraphs 1. or 2. of this sub-subdivision, including continuity plans, subscription arrangements, standing order arrangements, supplements, and series arrangements under which the seller periodically ships merchandise to a consumer who has consented in advance to receive such merchandise on a periodic basis.
- t. A person who for at least two years has been operating under the same name as that used in connection with its telemarketing operations and retail establishment in North Carolina where consumer goods are displayed and offered for sale on a continuing basis if a majority of the person's business involves the buyers obtaining services or products at the person's retail establishment.
- u. A person:

 - 1. Who provides telephone solicitation services under contract to sellers;

2. Who has been operating continuously for at least three years under the same business name; and
3. For whom at least seventy-five percent (75%) of the person's contracts are performed on behalf of other persons exempt under this section.
- v. A person soliciting political contributions in accordance with Article 22A of Chapter 163 of the General Statutes.
- w. The seller of a 'business opportunity' as defined in G.S. 66-94, while engaged in activities subject to regulation under Article 19 of Chapter 66 of the General Statutes, provided that such seller has complied with the provisions of G.S. 66-97.
- x. A 'loan broker' as defined in G.S. 66-106, while engaged in activities subject to regulation under Article 20 of Chapter 66 of the General Statutes, provided that such loan broker has complied with the provisions of G.S. 66-109.
- y. A 'membership camping operator' as defined in G.S. 66-232(10) or a 'salesperson' as defined in G.S. 66-232(16), while engaged in activities subject to regulation under Article 31 of Chapter 66 of the General Statutes, provided that such persons have complied with the provisions of G.S. 66-234 and G.S. 66-237, as applicable.

"§ 66-261. Registration of telephonic sellers.

(a) Not less than 10 days before commencing telephone solicitations in this State, a telephonic seller shall register with the Secretary by filing the information required in G.S. 66-262 and paying a filing fee of one hundred dollars (\$100.00). A telephonic seller is doing business in this State if it solicits or attempts to solicit prospective purchasers from locations in this State or solicits or attempts to solicit prospective purchasers who are located in this State.

(b) The information required in G.S. 66-262 shall be submitted on a form provided by the Secretary and shall contain the notarized signatures of each principal of the telephonic seller.

(c) Registration of a telephonic seller shall be valid for one year from the effective date thereof and may be annually renewed by making the filing required in G.S. 66-262 and paying the filing fee of one hundred dollars (\$100.00). Registration shall not be deemed effective unless all required information is provided and any deficiencies or errors noted by the Secretary have been corrected to the satisfaction of the Secretary.

(d) Whenever, prior to expiration of a seller's annual registration, there is a change in the information required by G.S. 66-262, the seller shall, within 10 days after the change, file an addendum with the Secretary updating the information.

"§ 66-262. Filing information.

(a) Each filing submitted to the Secretary shall contain all of the following information:

- (1) The name or names, including any assumed names, under which the telephonic seller is doing or intends to do business in this State.

- (2) The telephonic seller's business form and place of organization and, if the seller is a corporation, copies of its articles of incorporation and bylaws and amendments thereto, or if a partnership, a copy of the partnership agreement.
- (3) Complete street address of the telephonic seller's principal place of business.
- (4) The complete street address of each location from which telephone solicitations are placed by the telephonic seller.
- (5) A listing of all telephone numbers to be used by the telephonic seller, including area codes, and the complete street address of the business premises served by each number.
- (6) The name and title of each principal.
- (7) The complete street address of the residence, the date of birth, and the social security number of each principal.
- (8) The true name, street address, date of birth, and the social security number of each room operator, together with the room operator's full employment history during the preceding two years.
- (9) The name and address of all banks or savings institutions where the telephonic seller maintains deposit accounts.
- (10) The name and address of each long-distance telephone carrier used by the telephonic seller.
- (11) A summary of each civil or criminal proceeding brought against the telephonic seller, any of its principals, or any of its room operators during the preceding five years by federal, State, or local officials relating to telephonic sales practices of each. The summary shall include the date each action was commenced, the criminal or civil charges alleged, the case caption, the court file number, the court venue, and the disposition of the action. For purposes of this section, a 'civil proceeding includes' means assurances of voluntary compliance, assurances of discontinuance, consent judgments, and similar agreements executed with federal, State, or local officials.

(b) For purposes of this section, 'street address' does not include a private mail service address.

"§ 66-263. Bond requirement; prizes and gifts.

(a) At least 10 days before the commencement of any promotion offering any gift or prize with an actual or represented market value of five hundred dollars (\$500.00) or more, the telephonic seller shall notify the Secretary in writing of the details of the promotion, fully describing the nature and number of all gifts or prizes and their current market value, the seller's rules and regulations governing the promotion, and the date the gifts or prizes are to be awarded. All gifts or prizes offered shall be awarded. Concurrent with notifying the Secretary under this subsection, the telephonic seller shall post a bond with the Secretary for the market value or the represented value, whichever is greater, of all gifts or prizes represented as available under the promotion. The bond must be issued by a surety company authorized to do business in this State. The bond shall be in favor of the State of North Carolina for the benefit of any person entitled to

receive a gift or prize under the promotion who did not receive it within 30 days of the specified date of award. The amount recoverable by any person under the bond shall not exceed the market value, the represented value of the gift or prize, or the amount of any consideration or contribution paid by that person in response to the telephone solicitation, whichever is greatest.

(b) Within 45 days after the specified date of the award of the gift or prize, the seller shall provide, in writing, to the Secretary, proof that the gifts or prizes were awarded. The writing shall include the name, address, and telephone number of all persons receiving awards or prizes. The bond shall be maintained until the Secretary receives reliable proof that the gifts or prizes have been delivered to the intended recipients.

(c) The Attorney General, on behalf of any injured purchaser, or any purchaser who is injured by the bankruptcy of the telephonic seller or its breach of any agreement entered into in its capacity as a telephonic seller, may initiate a civil action to recover against the bond.

"§ 66-264. Calls made to minors.

A telephonic seller must inquire as to whether the prospective purchaser it is contacting is under 18 years of age. If the prospective purchaser purports to be under 18 years of age, the telephonic seller must discontinue the call immediately.

"§ 66-265. Offers of gifts or prizes.

(a) It shall be unlawful for any telephonic seller to make a telephone solicitation or attempted telephone solicitation involving any gift or prize when the solicitation or attempted solicitation:

- (1) Requests or directs the consumer to further the transaction by calling a 900 number or a pay-per-call number.
- (2) Requests or directs the consumer to send any payment or make a donation in order to collect the gift or prize.
- (3) Does not comply fully with G.S. 75-30, 75-32, 75-33, or 75-34.

(b) Notwithstanding subsection (a) of this section, a telephonic seller may offer a gift or prize in connection with the bona fide sale of a product or service.

"§ 66-266. Penalties.

(a) Any violation of this Article shall constitute an unfair and deceptive trade practice in violation of G.S. 75-1.1.

(b) In an action by the Attorney General against a telephonic seller for violation of this Article, or for any other act or practice by a telephonic seller constituting a violation of G.S. 75-1.1, the court may impose civil penalties of up to twenty-five thousand dollars (\$25,000) for each violation involving North Carolina purchasers or prospective purchasers who are 65 years of age or older.

(c) The remedies and penalties available under this section shall be supplemental to others available under the law, both civil and criminal.

(d) Compliance with this Article does not satisfy or substitute for any other requirements for license, registration, or conduct imposed by law.

(e) In any civil proceeding alleging a violation of this Article, the burden of proving an exemption or an exception from a definition is upon the person claiming it, and in any criminal proceeding alleging a violation of this Article, the burden of producing evidence to support a defense based

upon an exemption or an exception from a definition is upon the person claiming it."

Section 2. Article 52 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-401.15. Telephone sales recovery services.

(a) Except as provided in subsection (c) of this section, it shall be unlawful for any person or firm to solicit or require payment of money or other consideration in exchange for recovering or attempting to recover:

- (1) Money or other valuable consideration previously tendered to a telephonic seller, as defined in G.S. 66-260; or
- (2) Prizes, awards, or other things of value that the telephonic seller represented would be delivered.

(b) A violation of this section shall be punishable as a Class 1 misdemeanor. Any violation involving actual collection of money or other consideration from a customer shall be punishable as a Class H felony.

(c) This section does not apply to attorneys licensed to practice law in this State, to persons licensed by the North Carolina Private Protective Services Board, or to any collection agent properly holding a permit issued by the Department of Insurance to do business in this State."

Section 3. Section 2 of this act becomes effective January 1, 1998, and applies to offenses committed on or after that date. The remaining sections of this act become effective October 1, 1997, and apply to violations occurring on or after that date.

In the General Assembly read three times and ratified this the 25th day of August, 1997.

Became law upon approval of the Governor at 2:28 p.m. on the 4th day of September, 1997.

S.B. 32

CHAPTER 483

AN ACT TO AUTHORIZE STUDIES BY THE LEGISLATIVE RESEARCH COMMISSION, TO CREATE VARIOUS COMMISSIONS, TO CONTINUE A COUNCIL, TO DIRECT STATE AGENCIES AND LEGISLATIVE OVERSIGHT COMMITTEES AND COMMISSIONS TO STUDY SPECIFIED ISSUES, AND TO IMPOSE A MORATORIUM ON SERVICE CORPORATION CONVERSIONS.

The General Assembly of North Carolina enacts:

PART I.-----TITLE

Section 1. This act shall be known as "The Studies Act of 1997".

PART II.-----LEGISLATIVE RESEARCH COMMISSION

Section 2.1. The Legislative Research Commission may study the topics listed below. When applicable, the bill or resolution that originally proposed the issue or study and the name of the sponsor is listed. Unless otherwise specified, the listed bill or resolution refers to the measure introduced in the 1997 Regular Session of the 1997 General Assembly. The Commission may consider the original bill or resolution in determining the nature, scope, and aspects of the study.

- (1) Bingo regulation (Weinstein; H.B. 951 - Baker).
- (2) Building code issues (S.B. 820 - Shaw of Cumberland; H.B. 47 - Davis); State construction (Ives); Downtown revitalization (H.B. 50 - Davis, S. B. 823 - Shaw of Cumberland); Housing Trust Fund allocations to downtown areas.
- (3) Coastal beach movement issues including, but not limited to:
 - a. Beach renourishment; the value cost, level of need, return on investment, and eligible participants.
 - b. Storm hazard mitigation (S.B. 432 - Odom and Horton).
- (4) Dispute Resolution Commission revision and expansion of authority (S.B. 1021 - Rand).
- (5) Domestic Violence (S.B. 753 - Lucas; H.B. 909 - Bowie).
- (6) Financial institutions including, but not limited to:
 - a. Branch banking law in North Carolina (S.B. 901 - Warren).
 - b. Consumer finance industry issues (S.B. 777 - Lee; H.B. 356 - Tallent).
 - c. Robbery witness protection (S.B. 384 - Dalton).
 - d. Allowing mortgage bankers to make loans and charge related fees (H.B. 1125 - Miner)
- (7) Future of the courts (Ballance; H.B. 1192 - Daughtry, Neely, and Baddour).
- (8) Guardian Ad Litem Program (S.J.R. 24 - Ballance; H.J.R. 107 - Hiatt).
- (9) Health care information privacy issues (S.B. 1005 - Gulley; H.B. 925 - Reynolds).
- (10) Lien issues including, but not limited to:
 - a. Laws related to liens due medical providers for medical services provided and to the assignment of proceeds (S.B. 156 - Hartsell; H.B. 199 - Culpepper).
 - b. Allowing statutory liens for fees owed to commercial real estate brokers (S.B. 923 - Odom).
- (11) Lobbying and conflict issues including, but not limited to:
 - a. Lobbyists waiting period for former legislators, former members of the Council of State, or other officers or employees of State government (S.B. 3 - Jenkins).
 - b. No State agency contract lobbying (Section 7.17, 5th Edition of S.B. 352).
 - c. No State funds for lobbying (Section 11.73, 5th Edition of S.B. 352).
 - d. Governor's Highway Safety Program is not to hire paid lobbyists (Section 29.29, 5th Edition of S.B. 352).
 - e. Conflicts of interest; issues for public officials (H.B. 1165 - Bowie)
- (12) Municipalities annexation and incorporation issues including, but not limited to:
 - a. Incorporation process and requirements for new municipalities (S.J.R. 61 - Hartsell; H.B. 93 - Ellis; H.J.R. 163 - Cole).

- b. Annexation, incorporation, and land-use planning (S.B. 903 - Hartsell).
- (13) Coastal insurance issues (H.B. 452 - Redwine; H.B. 1119 - McComas).
- (14) Division of 30th District Court District and 30th Prosecutorial District (Section 15.11A, 5th edition, S.B. 352 - Carpenter)
- (15) Cemetery Commission and Cemetery regulation (H.B. 98 - Hill)
- (16) Consumer Protection (H.J.R. 25 - Thompson; S.J.R. 28 - Jordon)
- (17) Cooperative Extension Service (H.B. 1018 - Smith)
- (18) Health care issues (H.B. 1207 - Bowie; H.B. 1204- Brawley; H.B. 985 - Insko)
- (19) Rail service to State Ports (H.B. 257 - McComas)
- (20) DHR Schools (H.B. 1002 - Arnold)
- (21) Watercraft safety (H.B. 513 - Preston)
- (22) Storm hazard mitigation (H.B. 572 - Mitchell; S.B. 432 - Odom) and wastewater systems permits (H.B. 1021 - Hardy)
- (23) Community colleges (Rayfield; Shubert)
- (24) Information technology (H.B. 290, 925, 970, 973, 1034, 1047)
- (25) Victims rights (H.B. 665 - Eddins)
- (26) Dental hygienist regulation, supervision, and scope of practice (Gardner)
- (27) National Guard buy-in to State Health Plan (S.B. 434 - Forrester)
- (28) Small business development (H.B. 1177 - Shubert)
- (29) Venture Capital and business financing (S.B. 956 - Hoyle and Kerr)
- (30) Adoption registry (H.B. 1206 - Allred)

Section 2.2. Administration of Rabies Vaccine (Kerr; Morgan). The Legislative Research Commission may study issues related to the administration of the rabies vaccine to dogs, including whether owners of dogs who are not veterinarians or certified rabies vaccinators should be authorized to administer vaccines to their own dogs and, if so, pursuant to what statutory or administrative guidelines, conditions, and authority.

Section 2.3. Competition to Improve State Government Services. The Legislative Research Commission may study methods and initiatives to cause the use of competition to improve the delivery of State government services, to make State government more effective and efficient, and to reduce the costs of government to taxpayers.

Section 2.4. Dedicated Sources of Revenue (Rand). The Legislative Research Commission may study the use of dedicated funding including the establishment of dedicated sources of revenue for the North Carolina Housing Trust Fund and other sources of low-income housing, Legal Services of North Carolina, and professional firefighter retirement benefits including the appropriate length of service required to receive such benefits.

Section 2.5. Garnishment of Wages (S.B. 740 - Rand). The Legislative Research Commission may study issues relating to garnishment of wages to satisfy debts for which garnishment is not currently an option including the impact general wage garnishment would have on employers,

employees, personal bankruptcies, credit, and the judicial system, and the extent to which out-of-state creditors would seek wage garnishment. The Commission may consider appointing to the committee a representative from each of the following groups: (i) employers; (ii) employees; (iii) clerks of court; (iv) creditors; and (v) a business-related section of the North Carolina Bar Association.

Section 2.6. State and Local Government Fiscal Reform and Intergovernmental Relations (Perdue). The Legislative Research Commission may study emerging issues in fiscal reform and intergovernmental relations including the fiscal relationship between the State and its local governments by examining State revenue sources and the allocation of responsibility among the State and its local governments for financing and performing government services. The Commission may study and examine the following:

- (1) Issues related to urban development, including comprehensive land-use planning, annexation and incorporation of new municipalities, and the development of municipalities in an environmentally sound manner.
- (2) Whether State and local responsibilities for providing government services should be reallocated, including an evaluation of the current means of delivering education and health care services to the citizens of the State and the desirability and feasibility of developing new methods for providing citizens in the rural as well as the urban areas of the State with a quality, competitive education and comprehensive, state-of-the-art health care.
- (3) Whether the State should provide local governments with additional revenue options.
- (4) The most efficient and effective means for financing local government tax sharing and tax reimbursements and for providing local government services.
- (5) Whether taxes should be earmarked for specific purposes.
- (6) The desirability of developing a long-term, structured, strategic planning process that will focus on the economic development needs and goals of the rural and urban local governments located across the State.
- (7) Whether certain State services and programs should be privatized and, if so, the proper criteria for determining which services and programs should be privatized and in what manner.
- (8) Any other issues related to the desirability of reorganizing, restructuring, and downsizing State government.
- (9) The extent to which State policy on the financing of water supply and sewage infrastructure through grant and loan programs promotes orderly development that optimizes the expenditure of these State revenues.
- (10) The extent to which local governments have employed long-range planning to guide and encourage cost-efficient development patterns.

- (11) The extent to which local governments have utilized subdivision regulation, zoning ordinances, and other statutory powers to promote orderly development.
- (12) The feasibility of using positive State incentives to encourage greater utilization of land-use management by local governments.
- (13) The impact land transfer taxes and impact fees have had on development and on the financing of infrastructure to sustain rational growth.
- (14) The desirability of the legislature authorizing counties to enact certain optional local taxes and fees, such as land transfer taxes and impact fees, to fund capital needs.
- (15) The extent to which environmental regulatory programs administered by State agencies might be delegated in whole or in part to local governments.

Section 2.7. Pharmacy Practice Act Revision (S.B. 1039 - Perdue; Rand; Crawford). The Legislative Research Commission may study revising and updating the Pharmacy Practice Act including the following: (i) whether a pharmacist should be allowed to monitor drug therapy under specific guidelines established by a physician; (ii) designing a process for the electronic transmission of prescriptions between doctors and pharmacists; and establishing procedures for the distribution of prescriptions during an emergency or natural disaster; and (iv) prescription drug competition (S.B. 866 - Rand; H.B. 996 - Crawford). The Commission may consider appointing to the Committee a representative from each of the following groups: (i) the North Carolina Medical Association; (ii) the North Carolina Hospital Association; (iii) the North Carolina Pharmacy Association; (iv) the North Carolina Health Care Facilities Association; and (v) the North Carolina HMO Association.

Section 2.8. Public Transit (Gulley). The Legislative Research Commission may study public transit in the State including the following: (i) review and validate present and future public transit funding needs; (ii) evaluate the economic impact of public transit on the State and its various regions; (iii) evaluate the appropriate roles of local, regional, State, and federal governments in funding public transit; and (iv) short- and long-range funding solutions.

Section 2.9. Relationship of the Open Meetings Law and the Public Records Law to Institutions of The University of North Carolina (Lee; H.B. 898 - Daughtry). The Legislative Research Commission may study the relationship of the Open Meetings Law, as set forth in Article 33C of Chapter 143 of the General Statutes, and the Public Records Law, as set forth in Chapter 132 of the General Statutes, to The University of North Carolina and its constituent institutions. The study shall include at least the following:

- (1) Whether to exclude from the definition of public records, attorney work product, certain donor and alumni records, and drafts of certain documents;
- (2) Whether to include faculty as professional staff under the Open Meetings Law; and

- (3) Other ways to assist the University system to best serve its educational purposes within the public purposes of the Open Meetings Law and the Public Records Law.

Section 2.10. Substance Abuse Aftercare (Martin of Guilford). The Legislative Research Commission may study substance abuse aftercare. The study may include the following:

- (1) The underlying issues relative to substance abuse, such as the economic, social, psychological, and cultural reasons for obstacles to success in remaining drug free;
- (2) Approaches to overcoming those obstacles to success;
- (3) Better processes and methods for aftercare, rehabilitation, and readjustment to societal norms and expectations; and
- (4) Review of programs that have proven to be successful over the long-term in working with recovering addicts in nonclinical settings.

Section 2.11. Committee Membership. For each Legislative Research Commission committee created during the 1997-98 biennium, the cochair of the Legislative Research Commission shall appoint the committee membership.

Section 2.12. Reporting Date. For each of the topics the Legislative Research Commission decides to study under this Part or pursuant to G.S. 120-30.17(1), the Commission may report its findings, together with any recommended legislation, to the 1997 General Assembly, 1998 Regular Session, or the 1999 General Assembly.

Section 2.13. Funding. From the funds available to the General Assembly, the Legislative Services Commission may allocate additional monies to fund the work of the Legislative Research Commission.

PART III.-----LEGISLATIVE STUDY COMMISSION ON CHILDREN AND YOUTH MEMBERSHIP CHANGE (Rand; Gardner)

Section 3.1. Effective August 13, 1997, G.S. 120-210(a), as is found in Section 11 of S.L. 1997-390, reads as rewritten:

"(a) The Commission shall consist of 23 ~~25~~ members, as follows:

- (1) ~~Ten~~ Eleven members appointed by the Speaker of the House of Representatives, ~~as follows:~~ among them:
 - a. Four shall be members of the House of Representatives at the time of their appointment,
 - b. One shall be the director of a local health department,
 - c. One shall be the director of a county department of social services,
 - d. One shall be a representative of the general public who has knowledge of issues relating to children and youth,
 - e. One shall be a licensed physician who is knowledgeable about the health needs of children and youth, and
 - f. One shall be a chief district court judge recommended by the Council of Chief District Judges.
 - g. One shall be a representative from the Covenant with North Carolina Children.

- (2) ~~Ten~~ Eleven members appointed by the President Pro Tempore of the Senate, as follows:
- Four shall be members of the Senate at the time of their appointment,
 - One shall be the director of a mental health area authority,
 - One shall be a representative of the Association of County Commissioners,
 - One shall be a representative of the general public who has knowledge of issues relating to children and youth,
 - One shall be a licensed attorney whose practice includes the representation of parents accused of criminal or civil abuse or neglect, and
 - One shall be a chief district court judge recommended by the Council of Chief District Judges.
 - One shall be a representative from the North Carolina Child Advocacy Institute.
 - One shall be a representative from the North Carolina Child Fatality Task Force.
- (3) The following shall serve ex officio as nonvoting members of the Commission:
- The Secretary of Human Resources, or the Secretary's designee,
 - The State Superintendent of Public Instruction, or the Superintendent's designee, and
 - The Secretary of Administration, or the Secretary's designee-designee, and
 - The Director of the Administrative Office of the Courts, or the Director's designee."

PART IV.-----JOINT LEGISLATIVE CORRECTIONS OVERSIGHT COMMITTEE TO STUDY CORRECTION ENTERPRISES SIGN SHOP (S.B. 860 - Lee)

Section 4.1. The Joint Legislative Corrections Oversight Committee shall study the operation of Correction Enterprises industries, including the sign shop and furniture and upholstery plants, with a review of, among other issues, the (i) pricing structure in relation to private companies and (ii) job placement opportunities for prison apprentices upon release.

Section 4.2. The Committee may file an interim report with the 1997 General Assembly, 1998 Regular Session, and shall file a final report with the 1999 General Assembly upon its convening. The reports shall be filed no later than the dates on which those sessions respectively convene.

PART V.-----GOVERNOR'S CRIME COMMISSION TO STUDY DOMESTIC VIOLENCE CRIME CATEGORIES (Rand; Bowie; Morris)

Section 5.1. The Governor's Crime Commission of the Department of Crime Control and Public Safety shall coordinate a study of the incidence of domestic violence and identify the felonies and misdemeanors that may be categorized as domestic violence. The study shall include participation by the North Carolina Conference of District Attorneys and the seven

prosecutorial districts that are currently receiving funds from the Violence Against Women Act, administered through the Governor's Crime Commission. The study shall also include participation of other prosecutorial districts which volunteer their participation in providing necessary information. The Commission shall recommend a statutory definition of domestic violence crimes that will be sufficiently clear so that it can be used by law enforcement officers and prosecutors to determine eligibility of victims of these crimes for victims' assistance services. The Commission shall also recommend whether any crimes that are currently misdemeanors should be reclassified as felonies when committed as crimes of domestic violence. The Commission shall forward its recommendations to the North Carolina Sentencing and Policy Advisory Commission. The Sentencing and Policy Advisory Commission shall analyze the recommendations for impact on the length of time for which persons are incarcerated and the number of persons incarcerated. The Commission shall report the findings of its study and its recommendations, including the analyses from the Sentencing and Policy Advisory Commission, to the 1997 General Assembly, 1998 Regular Session, on or before its convening date.

Section 5.2. The Governor's Crime Commission shall conduct this study within available funds.

PART VI.-----EDUCATION OVERSIGHT STUDIES

Section 6.1. The Joint Legislative Education Oversight Committee may study the following matters:

- (1) The issue of the gap in student academic achievement between racial and socioeconomic groups (S.B. 640 - Rucho). To assist the Education Oversight Committee in this study, the Committee's cochair may appoint an advisory subcommittee on this matter. The subcommittee shall consist of equal numbers of members appointed by the Senate cochair and the House cochair. Either cochair may appoint to the subcommittee members, including public members who are not also members of the Committee. Members of the subcommittee who are not members of the Committee may participate fully in all subcommittee business, including all deliberations and votes; however, these members are not members of the Committee for any other purpose. The subcommittee members shall receive no salary for serving. All subcommittee members shall receive necessary subsistence and travel expenses in accordance with the provisions of G.S. 120-3.1, 138-5, and 138-6 as applicable. In particular, the Committee may examine:
 - a. Whether student assignment plans increase, decrease, or have no effect on the academic achievement gap.
 - b. The effect of increased parental and community involvement on the academic achievement gap.
 - c. The relationship, if any, between the distribution of resources and student achievement.
 - d. Mechanisms to distribute personnel and financial resources to provide a quality educational opportunity for all students.

- e. The relationship, if any, between student achievement and factors such as teacher turnover, teacher attendance, and teacher assignment outside the teacher's area of certification.
 - f. The extent to which preservice and continued professional development for educational personnel should be modified in order to address the needs of students who are not making adequate academic progress.
 - g. The extent to which curriculum content and delivery should be modified in order to address the needs of students who are not making adequate academic progress.
 - h. The relationship between kindergarten readiness and subsequent academic success.
 - i. Proven and proposed mechanisms for decreasing the academic achievement gap.
- (1a) Pupil assignment options (H.B. 707 - Gulley)
 - (2) The issue of developing a child welfare training institute in the university and community college system (Perdue).
 - (3) The issues of recruiting, training, and retaining qualified child welfare staff (Perdue).
 - (4) Adding additional paid days when considering teachers' salaries (H.B. 1026 - Arnold).
 - (5) Noninstructional duties of teachers. The study may include, but not be limited to, noninstructional duties during the workday, noninstructional duties outside of the workday, pay for noninstructional duties, and the relationship between athletic duties and other duties such as club advisors' pay and equitable pay. (H.B. 1182 - Moore).
 - (6) The role of the student member of the Board of Governors of The University of North Carolina and real and perceived conflicts of interests by members of the Board of Governors (S.B. 1058 - Kinnaird).
 - (7) Salary schedules for noncertified public school employees. In the course of the study, the Committee may consider the current salary schedules and salary ranges for noncertified public school employees, the need for minimum salary schedules for noncertified public school employees, and the cost of implementing minimum salary schedules. In its review of salary schedules, the Committee may consider years of experience and levels of training and education.
 - (8) The impact on small school systems of large losses of administration due to increases in charter school enrollment.
 - (9) Student discipline (H.B. 1072 - Cole).

Section 6.2. The Joint Legislative Education Oversight Committee may report its findings and recommendations on each of the studies authorized by this Part to the 1997 General Assembly, 1998 Regular Session, or the 1999 General Assembly. The reports may be filed no later than the dates on which those sessions respectively convene.

PART VII.-----LEGISLATIVE STUDY COMMISSION ON PUBLIC SCHOOLS (Lee and Arnold)

Section 7.1. The Legislative Study Commission on Public Schools is established. The Commission shall consist of 16 members: eight Senators appointed by the President Pro Tempore of the Senate and eight Representatives appointed by the Speaker of the House of Representatives.

Vacancies shall be filled by the person who made the initial appointment.

Section 7.2. The Commission shall study issues relating to equity for public school systems, including, but not limited to, small school and low-wealth schools funding, equity funding systems of the UNC and community colleges and results of ABC and safe schools programs, personnel distribution, distribution of Teaching Fellows Scholarship recipients, uneven distribution of the children with special needs population, the need of further resources for English as a second language, university scholarship resources and needs for public school students, and funding and programs for the schools for the deaf.

Section 7.3. The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall each designate a cochair of the Commission. The Commission shall meet upon the call of the cochairs. A quorum of the Commission is nine members. While in the discharge of its official duties, the Commission may exercise all the powers provided under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4.

Section 7.4. Members of the Commission shall receive subsistence and travel allowances in accordance with G.S. 120-3.1.

Section 7.5. Upon approval of the Legislative Services Commission, the Legislative Services Officer shall assign appropriate professional staff from the Legislative Services Office of the General Assembly to assist with the study. The House of Representatives' and the Senate's Supervisors of Clerks shall assign clerical staff to the Commission, upon the direction of the Legislative Services Commission. The Commission may meet in the Legislative Building or the Legislative Office Building upon the approval of the Legislative Services Commission.

Section 7.6. The Commission shall submit an interim report to the 1997 General Assembly, 1998 Regular Session, upon its convening. The Commission shall submit a final report to the General Assembly upon the convening of the 1999 General Assembly. The Commission shall terminate upon filing its final report.

Section 7.7. From appropriations to the General Assembly, the Legislative Services Commission may allocate funds for the expenses of the Legislative Study Commission on Public Schools Equity.

PART VIII.-----ENVIRONMENTAL REVIEW COMMISSION STUDIES

Section 8.1. The Environmental Review Commission may study the following matters:

- (1) The impact of air pollutant emissions from asphalt plants on public health and the environment (S.B. 1022 - Kinnaird and Foxx).
- (2) The remediation and reuse of brownfields property, as defined in G.S. 130A-310.31(b)(3), as enacted by the Brownfields Property

- Reuse Act of 1997, S.L. 1997-357. To assist the Environmental Review Commission in this study, the Commission's cochairs may appoint an advisory subcommittee on this matter. Members of the advisory subcommittee who are State employees shall receive per diem and necessary travel and subsistence expenses in accordance with G.S. 138-6. Members of the advisory subcommittee who are not State employees shall receive per diem and necessary travel and subsistence expenses in accordance with G.S. 138-5.
- (3) The administration of the emissions inspection and maintenance program for motor vehicles under G.S. 20-128.2 and Part 2 of Article 3A of Chapter 20 of the General Statutes and whether that program should be transferred from the Division of Motor Vehicles of the Department of Transportation to the Environmental Management Commission and the Division of Air Quality in the Department of Environment, Health, and Natural Resources (S.B. 845 - Odom; S.B. 671 - Albertson).
 - (4) The transfer of surface waters between river basins in the State (S.B. 947 - Cochrane). As a part of this study, the Environmental Review Commission may consider whether, and on what basis, the total volume of water that may be transferred from any river basin should be limited and whether the Environmental Management Commission should be authorized to issue special orders to remedy violations of laws or rules regulating transfers.
 - (5) The feasibility and desirability of establishing a voluntary education program designed to educate members of the public who maintain residential lawns or gardens concerning the impact nutrients and pesticides have on the environment of the State, the responsible use of nutrients and pesticides, and ways to reduce excessive inputs of nutrients and pesticides into the surface and groundwaters of the State (Albertson). In conjunction with this study, the Environmental Review Commission may study the feasibility and desirability of directing the North Carolina Cooperative Extension Service to develop and implement such a voluntary education program.
 - (6) The preliminary evaluation of proposed sites for wastewater systems (S.B. 671 - Albertson). The study may address whether local health departments should conduct preliminary evaluations of proposed sites for wastewater systems; how preliminary evaluations conducted by local health departments might be made more reliable; the extent to which an applicant may rely on a preliminary evaluation; and liability in instances where the State fails to issue an improvement permit for a site for which a local health department has concluded that the site is appropriate for construction of a wastewater system.
 - (7) Evaluate all State-funded water quality studies conducted since 1992 (Kerr).

Section 8.2. Upon request, all State departments, agencies, commissions, and councils shall cooperate with the Commission on the studies authorized by this Part.

Section 8.3. The Environmental Review Commission may report its findings and recommendations on each of the studies authorized by this Part to the 1997 General Assembly, 1998 Regular Session, or the 1999 General Assembly.

PART IX.-----ENVIRONMENTAL MANAGEMENT COMMISSION AND DEHNR TO STUDY EMISSIONS INSPECTION AND MAINTENANCE
(S.B. 845 - Odom; S.B. 671 - Albertson)

Section 9.1. The Environmental Management Commission and the Division of Air Quality of the Department of Environment, Health, and Natural Resources, with the assistance and cooperation of the Division of Motor Vehicles of the Department of Transportation, shall study whether the emissions inspection and maintenance program for motor vehicles administered under G.S. 20-128.2 and Part 2 of Article 3A of Chapter 20 of the General Statutes should be expanded to include all metropolitan counties. The study shall evaluate the costs and benefits of expanding the program, including the benefits resulting from a reduction in the likelihood that those counties will not meet the national ambient air quality standards for ozone and carbon monoxide in the future, thereby incurring the restrictions on industries, power plants, vehicles, and other activities that apply to nonattainment counties. Beginning 1 January 1998, the Environmental Management Commission shall report its findings, recommendations, and any legislative proposals regarding the matters to be evaluated pursuant to this section to the Environmental Review Commission as part of the quarterly report the Environmental Management Commission is required to make to the Environmental Review Commission by G.S. 143B-282(b).

Section 9.2. The Environmental Management Commission, the Division of Air Quality of the Department of Environment, Health, and Natural Resources, and the Division of Motor Vehicles of the Department of Transportation shall take appropriate steps to ensure that the current emissions inspection and maintenance program for motor vehicles administered under G.S. 20-128.2 and Part 2 of Article 3A of Chapter 20 of the General Statutes is effectively implemented and enforced. Beginning 1 October 1997, the Environmental Management Commission shall report its findings, recommendations, and any legislative proposals regarding the implementation and enforcement of the emissions inspection and maintenance program to the Environmental Review Commission as part of the quarterly report the Environmental Management Commission is required to make to the Environmental Review Commission by G.S. 143B-282(b). The Division of Motor Vehicles shall report on its progress in meeting the requirements of this section to the Environmental Review Commission on a quarterly basis beginning 1 October 1997.

PART X.-----STUDY COMMISSION ON THE FUTURE OF ELECTRIC SERVICE IN NORTH CAROLINA REIMBURSEMENT OF EXPENSES
(Rand; Dickson)

Section 10.1. Notwithstanding G.S. 62-302(d), all expenses during the 1997-98 and the 1998-99 fiscal years of the Study Commission on the Future of Electric Service in North Carolina, established in S.L. 1997-40,

shall be reimbursed from funds in the Utilities Commission and Public Staff Fund. There is allocated initially one hundred thousand dollars (\$100,000) from the Utilities Commission and Public Staff Fund to the General Assembly for the purpose of enabling the Study Commission on the Future of Electric Service in North Carolina to organize and begin its work. Upon the certification of the need for additional funds by the cochair of the Study Commission on the Future of Electric Service in North Carolina for the work of the Commission, the Utilities Commission shall transfer the additional funds from the Utilities Commission and Public Staff Fund to the General Assembly for that purpose.

PART XI.-----HOSPITAL, MEDICAL, AND DENTAL SERVICE CORPORATION CHARTER CONVERSION STUDY COMMISSION (S.B. 993 - Rand)

Section 11.1. (a) There is established the Hospital, Medical, and Dental Service Corporation Charter Conversion Study Commission. The Commission shall consist of 14 members appointed as follows:

- (1) Six members appointed by the Speaker of the House of Representatives, four of whom shall be members of the House of Representatives. Of the remaining two members:
 - a. One shall be a representative of Blue Cross Blue Shield of North Carolina, Incorporated; and
 - b. One shall be a representative of the hospital or medical community; and
- (2) Six members appointed by the President Pro Tempore of the Senate, four of whom shall be members of the Senate. Of the remaining two members:
 - a. One shall be a representative of the North Carolina Citizens for Business and Industry; and
 - b. One shall be a representative of a philanthropic organization, incorporated in North Carolina.
- (3) The following ex officio, nonvoting members:
 - a. The Attorney General, or the Attorney General's designee; and
 - b. The Insurance Commissioner, or the Commissioner's designee.

Vacancies shall be filled by the person making the initial appointment.

(b) The Commission shall conduct a study of all aspects of conversion of a hospital, medical, and dental service corporation to a mutual nonstock or stock accident and health insurance company or life insurance company subject to Articles 1 through 64 of Chapter 58 of the General Statutes. The study shall include, but is not limited to, the following:

- (1) The status, results, and public or private ownership interests, as may exist, in conversions by medical, hospital, and dental service corporations or similar entities in North Carolina and other states;
- (2) The direct and indirect effects of any change in the structure of the hospital, medical, and dental service corporations on State health programs, such as Medicaid, payment programs within the Department of Human Resources, and the North Carolina Teachers' and State Employees' Major Medical Plan;

- (3) The charitable trust obligations, if any, of nonprofit medical, hospital, and dental service corporations upon conversion and their obligations to their members and subscribers; and
- (4) Anti-inurement restrictions on officers and directors involved in conversions.

(c) The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall each designate a cochair of the Commission. The Commission shall meet upon the call of the cochairs. A quorum of the Commission is nine members. While in the discharge of its official duties, the Commission has the powers of a joint committee under G.S. 120-19 and G.S. 120-19.1.

Members of the Commission shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate.

Upon approval of the Legislative Services Commission, the Legislative Services Officer shall assign appropriate professional staff of the General Assembly to assist the Commission. Clerical staff shall be assigned to the Commission through the Offices of the Supervisor of Clerks of the Senate and Supervisor of Clerks of the House of Representatives.

(d) The Commission shall make its final report to the 1997 General Assembly, 1998 Regular Session, upon its convening. The Commission shall terminate upon filing its final report.

Section 11.2. From appropriations to the General Assembly, the Legislative Services Commission may allocate funds for the expenses of the Hospital, Medical, and Dental Service Corporation Charter Conversion Study Commission under this Part.

PART XII.-----MORATORIUM ON CONVERSION OF HOSPITAL, MEDICAL, AND DENTAL SERVICE CORPORATION CHARTERS (Rand)

Section 12.1. Notwithstanding any other provision of law, no hospital, medical, and dental service corporation may convert to a mutual nonstock or stock accident and health insurance company or life insurance company prior to August 1, 1998. For the purposes of this section, "convert to a mutual nonstock or stock accident and health insurance company or life insurance company" includes a restructuring that is determined by the Commissioner of Insurance to constitute the disposition of a substantial amount of the corporation's assets to an entity other than a nonprofit entity, except for the disposition of assets in the ordinary course of business.

PART XIII.-----INDUSTRIAL COMMISSION ADVISORY COUNCIL EXTENDED (Kerr)

Section 13.1. Section 11.1 of Chapter 679 of the 1993 Session Laws (1994 Regular Session) reads as rewritten:

"Sec. 11.1. This act is effective upon ratification, except as follows:

(a) Sections 3.6, 4.1, and G.S. 97-79(d), as contained in Section 5.2, become effective October 1, 1994, and apply to claims pending on or filed after that date.

(b) G.S. 97-26(b) and G.S. 97-26(f), as enacted in Section 2.3, become effective October 1, 1994. G.S. 97-26(a), as enacted in Section 2.3, is effective upon ratification but the provisions of the third paragraph of said subsection shall not apply to the fee schedule in effect as of the date of ratification of this act.

(c) Sections 7.1, 7.2, and 8.1 become effective October 1, 1994, and apply to violations occurring on or after that date.

(d) Sections 2.1, 2.2, 2.4, 3.7, and 5.5 become effective September 1, 1994, and apply to claims pending on or filed after that date.

(e) Section 6.1 and G.S. 97-79(f), as contained in Section 5.2, become effective July 1, 1994.

(f) Sections 3.2, 3.3, 3.4, 3.5, subsections (b), (c), (d), (f), and (g), and the catch line of G.S. 97-18, as contained in Section 3.1, and Section 10.9 become effective January 1, 1995, and apply to claims pending on or filed after that date.

(g) Section 2.5 is effective upon ratification and applies to injuries by accident occurring on or after that date.

(h) Section 2.6 is effective upon ratification and applies to claims pending on or filed after the date of ratification.

(i) Section 8.5 becomes effective September 1, 1994.

Section 5.1 expires July 1, 1997. July 1, 2001.

PART XIV.-----REVENUE LAWS STUDY COMMITTEE (S.B. 35 - Kerr; Cansler)

Section 14.1. Chapter 120 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 12L.

"Revenue Laws Study Committee.

"§ 120-70.105. Creation and membership of the Revenue Laws Study Committee.

The Revenue Laws Study Committee is established. The Committee consists of 16 members as follows:

(1) Eight members appointed by the President Pro Tempore of the Senate; the persons appointed may be members of the Senate or public members.

(2) Eight members appointed by the Speaker of the House of Representatives; the persons appointed may be members of the House of Representatives or public members.

Terms on the Committee are for two years and begin on January 15 of each odd-numbered year, except the terms of the initial members, which begin on appointment. Legislative members may complete a term of service on the Committee even if they do not seek reelection or are not reelected to the General Assembly, but resignation or removal from service in the General Assembly constitutes resignation or removal from service on the Committee.

A member continues to serve until his successor is appointed. A vacancy shall be filled within 30 days by the officer who made the original appointment.

"§ 120-70.106. Purpose and powers of Committee.

(a) The Revenue Laws Study Committee may:

- (1) Study the revenue laws of North Carolina and the administration of those laws.
- (2) Review the State's revenue laws to determine which laws need clarification, technical amendment, repeal, or other change to make the laws concise, intelligible, easy to administer, and equitable.
- (3) Call upon the Department of Revenue to cooperate with it in the study of the revenue laws.
- (4) Report to the General Assembly at the beginning of each regular session concerning its determinations of needed changes in the State's revenue laws.

These powers, which are enumerated by way of illustration, shall be liberally construed to provide for the maximum review by the Committee of all revenue law matters in this State.

(b) The Committee may make interim reports to the General Assembly on matters for which it may report to a regular session of the General Assembly. A report to the General Assembly may contain any legislation needed to implement a recommendation of the Committee. When a recommendation of the Committee, if enacted, would result in an increase or decrease in State revenues, the report of the Committee must include an estimate of the amount of the increase or decrease.

"§ 120-70.107. Organization of Committee.

(a) The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair of the Revenue Laws Study Committee. The Committee shall meet upon the joint call of the cochairs.

(b) A quorum of the Committee is nine members. No action may be taken except by a majority vote at a meeting at which a quorum is present. While in the discharge of its official duties, the Committee has the powers of a joint committee under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4.

(c) The Committee shall be funded by the Legislative Services Commission from appropriations made to the General Assembly for that purpose. Members of the Committee receive subsistence and travel expenses as provided in G.S. 120-3.1 and G.S. 138-5. The Committee may contract for consultants or hire employees in accordance with G.S. 120-32.02. Upon approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional staff to assist the Committee in its work. Upon the direction of the Legislative Services Commission, the Supervisors of Clerks of the Senate and of the House of Representatives shall assign clerical staff to the Committee. The expenses for clerical employees shall be borne by the Committee."

Section 14.2. The Revenue Laws Study Committee shall study the following matters:

- (1) The structure of the franchise tax and the feasibility of removing its inventory component;
- (2) Income tax deductions for health insurance costs of self-employed individuals (S.B. 971 - Reeves);

- (3) Whether tax credits and other forms of economic development incentives achieve the desired effects and reflect the State's priorities;
- (4) Property tax issues including the assessment and collection of ad valorem taxes under the Machinery Act (H.B. 514 - McMahan; S.B. 365 - Rucho); and
- (5) Effectiveness of long-term care tax credit (H.B. 74 - Cansler).

Section 14.3. From appropriations to the General Assembly, the Legislative Services Commission may allocate funds for the expenses of the Revenue Laws Study Committee under this Part.

PART XV.-----JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE STUDIES

Section 15.1. The Joint Legislative Transportation Oversight Committee may study the following issues:

- (1) Truck width and length, including the effect on highway safety and traffic engineering (H.B. 1242 - Transportation Committee). The Committee may consider all potential effects of allowing industry standard tractor/single trailer combinations of up to 68 feet in total length on additional highways of the State.
- (2) Ways to improve the safety of the operation of trucks in North Carolina and to increase the safety of tires on all motor vehicles (H.B. 1242 - Transportation Committee). The study shall include the following:
 - a. Truck inspection violations, including operation of a truck without a required inspection sticker;
 - b. Increased penalties for brake safety violations, including strengthening penalties for second or subsequent offenses;
 - c. The need for additional inspectors to follow up on truck safety violations;
 - d. Measures necessary to ensure that trucks and other vehicles are equipped with tires that are safe for the operation of the motor vehicle and that do not expose the public to needless hazard;
 - e. The potential benefit of a commercial graduated drivers license to ensure that a person would have both instruction and experience before obtaining a commercial drivers license;
 - f. Effective enforcement of existing highway safety laws regarding speeding in highway work zones and properly securing loads of gravel, rock, or similar substances on trucks, trailers, or other vehicles;
 - g. The use and potential effectiveness of water and physical element deflectors in reducing truck accidents; and
 - h. The methods of removing unsafe vehicles from the public roads, including authorizing law enforcement officers to order that a vehicle be towed from the highway if the officer determines that the continued operation of the vehicle would constitute a hazard to the motoring public.

- (3) Encouraging the growth of the trucking industry in North Carolina through increased truck registrations (S.B. 886 - Jordan; H.B. 1096 - Hiatt). The study may include:
- a. The feasibility of removing the highway use tax on vehicles with a gross weight rating of more than 26,000 pounds;
 - b. The replacement of the revenue from the removal of the highway use tax studied in sub-subdivision a. of this subdivision by an increase in registration fees for the same vehicles by ten cents (10¢) per 100 pounds of registered weight; and
 - c. Eliminate the stacking of overweight penalties by restricting the penalties so that they do not exceed the highest axle-group weight that exceeds the allowable limits rather than assessing separate penalties for each axle-group and stacking those penalties for the same weight violations.
- (4) Unpaved secondary roads in North Carolina (S.B. 431 - Odom). The Committee may study the history, the current paving and maintenance programs, and any plans for the future paving and maintenance of secondary roads on the State secondary road system and those not currently on the State system or provided for in existing statutory or administrative programs.
- (5) Vehicle safety inspections (H.B. 9 - Carpenter)
- (6) Motorcycle helmets (Baker)

Section 15.2. The Joint Legislative Transportation Oversight Committee may report on these studies to the 1997 General Assembly, 1998 Regular Session, upon its convening, or to the 1999 General Assembly, upon its convening.

PART XVI.-----BILL AND RESOLUTIONS REFERENCES

Section 16.1. The listing of the original bill or resolution in this act is for reference purposes only and shall not be deemed to have incorporated by reference any of the substantive provisions contained in the original bill or resolution.

PART XVII.-----EFFECTIVE DATE AND APPLICABILITY

Section 17.1. Except as otherwise specifically provided, this act becomes effective July 1, 1997. If a study is authorized both in this act and the Current Operations Appropriations Act of 1997, the study shall be implemented in accordance with the Current Operations Appropriations Act of 1997 as ratified.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law upon approval of the Governor at 11:00 a.m. on the 10th day of September, 1997.

H.B. 1156

CHAPTER 484

AN ACT TO AUTHORIZE THE DEVELOPMENT OF SPECIAL
REGISTRATION PLATES FOR SUPPORTERS OF THE MARCH OF

DIMES, SCHOOL TECHNOLOGY, AND SCENIC RIVERS AND TO
AUTHORIZE THE DEVELOPMENT OF A REGISTRATION PLATE
FOR COMBAT VETERANS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-79.4(b) is amended by adding a new subdivision to read:

"(14a) March of Dimes. -- Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear a phrase or an insignia representing the March of Dimes Foundation."

Section 2. G.S. 20-79.4(b) is amended by adding a new subdivision, to be inserted by the Revisor of Statutes in the appropriate alphabetical place, to read:

"() School Technology. -- Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear a phrase or an insignia representing the public school system in North Carolina."

Section 2.1. G.S. 20-79.4(b) is amended by adding a new subdivision, to be inserted by the Revisor of Statutes in the appropriate alphabetical place to read:

"() Scenic Rivers. -- Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the words 'Scenic Rivers' and a picture representing the unique beauty of the scenic rivers of North Carolina."

Section 3. G.S. 20-79.4(b) is amended by adding a new subdivision to read:

"(6b) Combat Veteran. -- Issuable to a veteran of the armed forces who served in a combat zone, or in waters adjacent to a combat zone, during a period of war and who was separated from the armed forces under honorable conditions. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate. A 'period of war' is any of the following:

- a. World War I, which began April 16, 1917, and ended November 11, 1918.
- b. World War II, which began December 7, 1941, and ended December 31, 1946.
- c. The Korean Conflict, which began June 27, 1950, and ended January 31, 1955.
- d. The Vietnam Era, which began August 5, 1964, and ended May 7, 1975.
- e. The Persian Gulf War.
- f. Any other campaign, expedition, or engagement for which the United States Department of Defense authorizes a campaign badge or medal."

Section 4. G.S. 20-79.7(a) reads as rewritten:

"(a) **Fees.** -- Upon request, the Division shall provide and issue free of charge one registration plate to a recipient of the Congressional Medal of

Honor, a 100% disabled veteran, and an ex-prisoner of war. All other special registration plates are subject to the regular motor vehicle registration fee in G.S. 20-87 or G.S. 20-88 plus an additional fee in the following amount:

<u>Special Plate</u>	<u>Additional Fee Amount</u>
Historical Attraction	\$30.00
State Attraction	\$30.00
Collegiate Insignia	\$25.00
Olympic Games	\$25.00
Special Olympics	\$25.00
March of Dimes	\$20.00
Scenic Rivers	\$20.00
School Technology	\$20.00
Wildlife Resources	\$20.00
Personalized	\$20.00
Active Member of the National Guard	None
All Other Special Plates	\$10.00."

Section 5. G.S. 20-79.7(b) reads as rewritten:

"(b) Distribution of Fees. -- The Special Registration Plate Account and the Collegiate and Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in subsection (a) among the Special Registration Plate Account (SRPA), the Collegiate and Cultural Attraction Plate Account (CCAPA), and the Natural Heritage Trust Fund (NHTF), which is established under G.S. 113-77.7, as follows:

<u>Special Plate</u>	<u>SRPA</u>	<u>CCAPA</u>	<u>NHTF</u>
Historical Attraction	\$10	\$20	0
In-State Collegiate Insignia	\$10	\$15	0
Out-of-state Collegiate Insignia	\$10	0	\$15
Personalized	\$10	0	\$10
Special Olympics	\$10	\$15	0
Olympic Games	\$10	\$15	0
State Attraction	\$10	\$20	0
March of Dimes	\$10	\$10	0
Scenic Rivers	\$10	\$10	0
School Technology	\$10	\$10	0
Wildlife Resources	\$10	\$10	0
All other Special Plates	\$10	0	0."

Section 6. G.S. 20-81.12 is amended by adding three new subsections to read:

"(b5) March of Dimes Plates. -- The Division must receive 300 or more applications for a March of Dimes plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of March of Dimes plates to the Eastern Carolina Chapter of the March of Dimes Birth Defects Foundation. The Eastern Carolina Chapter shall disperse the revenue proportionately among the Eastern Carolina Chapter, the Western Carolina Chapter, the Greater Triad Chapter, and the Greater Piedmont Chapter of the March of Dimes Birth Defects Foundation based upon the population of

the area each Chapter represents. The money must be used for the prevention of birth defects through local community services and educational programs and through research and development.

(b6) School Technology Plates. -- The Division must receive 300 or more applications for a School Technology plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of School Technology plates to the State School Technology Fund, which is established under G.S. 115C-102.6D.

(b7) Scenic Rivers Plates. -- The Division must receive 300 or more applications for a Scenic Rivers plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Scenic Rivers plates to the Clean Water Management Trust Fund established in G.S. 113-45.3."

Section 7. G.S. 115C-102.6D(a) reads as rewritten:

"(a) There is established under the control and direction of the State Board of Education the State School Technology Fund. This fund shall be a nonreverting special revenue fund consisting of any monies appropriated to it by the General Assembly. Assembly and any monies credited to it under G.S. 20-81.12 from the sale of School Technology special license plates."

Section 8. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law upon approval of the Governor at 11:02 a.m. on the 10th day of September, 1997.

S.B. 157

CHAPTER 485

AN ACT TO EXPAND THE TIME CORPORATIONS AND LIMITED LIABILITY COMPANIES MAY APPLY FOR REINSTATEMENT FROM ADMINISTRATIVE DISSOLUTION, TO AMEND THE LAW GOVERNING DISSENTERS' RIGHTS PROCEDURES AND THE FILING OF DOCUMENTS BY LIMITED LIABILITY COMPANIES, TO ALLOW FACSIMILE SIGNATURES AND ADVISORY REVIEW OF DOCUMENTS BY THE SECRETARY OF STATE, AND TO CLARIFY CORRECTIONS PROCEDURES, LIMITED LIABILITY NAME AVAILABILITY, AND THE DEFINITION OF FOREIGN PROFESSIONAL CORPORATIONS AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION AND OTHERS, AND TO AUTHORIZE THE CREATION OF SINGLE MEMBER LIMITED LIABILITY COMPANIES, TO ALLOW A PARENT CORPORATION TO BE MERGED INTO ITS SUBSIDIARY CORPORATION IN CERTAIN CIRCUMSTANCES, TO REMOVE THE REQUIREMENT THAT A PUBLIC CORPORATION MUST WAIT THIRTY DAYS BEFORE IT CAN FILE ITS ARTICLES OF MERGER WITH THE SECRETARY OF STATE, TO INCREASE THE FEES FOR THE FILING OF CERTAIN DOCUMENTS.

The General Assembly of North Carolina enacts:

PART I. ADMINISTRATIVE DISSOLUTIONS.

Section 1. G.S. 55-14-22(a) reads as rewritten:

"(a) A corporation administratively dissolved under G.S. 55-14-21 may apply to the Secretary of State for reinstatement within two years not later than five years after the effective date of dissolution. The application must:

- (1) Recite the name of the corporation and the effective date of its administrative dissolution; and
- (2) State that the ground or grounds for dissolution either did not exist or have been eliminated.
- (3) Reserved.
- (4) Repealed by Session Laws 1995, c. 539, s. 6."

Section 2. G.S. 55A-14-22(a) reads as rewritten:

"(a) A corporation administratively dissolved under G.S. 55A-14-21 may apply to the Secretary of State for reinstatement within two years not later than five years after the effective date of dissolution. The application shall:

- (1) Recite the name of the corporation and the effective date of its administrative dissolution; and
- (2) State that the ground or grounds for dissolution either did not exist or have been eliminated."

Section 3. G.S. 57C-6-03(c) reads as rewritten:

"(c) A limited liability company administratively dissolved under this section may apply to the Secretary of State for reinstatement within two years not later than five years after the effective date of the administrative dissolution. The procedures for reinstatement and for the appeal of any denial of the limited liability company's application for reinstatement shall be the same procedures applicable to business corporations under G.S. 55-14-22, 55-14-23, and 55-14-24."

PART II. AMENDMENT OF DISSENTERS' RIGHTS PROCEDURES.

Section 4. G.S. 55-13-22(b) reads as rewritten:

"(b) The dissenters' notice must be sent no later than 10 days after the corporate action was taken, shareholder approval, or if no shareholder approval is required, after the approval of the board of directors, of the corporate action creating dissenters' rights under G.S. 55-13-02, and must:

- (1) State where the payment demand must be sent and where and when certificates for certificated shares must be deposited;
- (2) Inform holders of uncertificated shares to what extent transfer of the shares will be restricted after the payment demand is received;
- (3) Supply a form for demanding payment;
- (4) Set a date by which the corporation must receive the payment demand, which date may not be fewer than 30 nor more than 60 days after the date the subsection (a) notice is mailed; and
- (5) Be accompanied by a copy of this Article."

Section 5. G.S. 55-13-30 reads as rewritten:

"§ 55-13-30. *Court action.*

(a) If a demand for payment under G.S. 55-13-28 remains unsettled, the dissenter may commence a proceeding within 60 days after the date of his payment demand under G.S. 55-13-28 and petition the court by filing a complaint with the Superior Court Division of the General Court of Justice

to determine the fair value of the shares and accrued interest. Upon service upon it of the petition filed with the court, the corporation shall pay to the dissenter the amount offered by the corporation under G.S. 55-13-25.

(a) If the dissenter does not commence the proceeding within the 60-day period, the dissenter shall have an additional 30 days to either (i) accept in writing the amount offered by the corporation under G.S. 55-13-25, upon which the corporation shall pay such amount to the dissenter in full satisfaction of his demand, or (ii) withdraw his demand for payment and resume the status of a nondissenting shareholder. A dissenter who takes no action within such 30-day period shall be deemed to have withdrawn his dissent and demand for payment.

(b) Reserved for future codification purposes.

(c) The court shall have the discretion to make all dissenters (whether or not residents of this State) whose demands remain unsettled parties to the proceeding as in an action against their shares and all parties must be served with a copy of the ~~petition~~ complaint. Nonresidents may be served by registered or certified mail or by publication as provided by law.

(d) The jurisdiction of the superior court in which the proceeding is commenced under ~~subsection (b)~~ subsection (a) is plenary and exclusive. The court may appoint one or more persons as appraisers to receive evidence and recommend decision on the question of fair value. The appraisers have the powers described in the order appointing them, or in any amendment to it. The parties are entitled to the same discovery rights as parties in other civil proceedings. The proceeding shall be tried as in other civil actions. However, in a proceeding by a dissenter in a public corporation, corporation that was a public corporation immediately prior to consummation of the corporate action giving rise to the right of dissent under G.S. 55-13-02, there is no right to a trial by jury.

(e) Each dissenter made a party to the proceeding is entitled to judgment for the amount, if any, by which the court finds the fair value of his shares, plus interest, exceeds the amount paid by the corporation."

Section 5.1. G.S. 55-13-30(a), as amended by Section 5 of this act, reads as rewritten:

"(a) If a demand for payment under G.S. 55-13-28 remains unsettled, the dissenter may commence a proceeding within 60 days after the date of his payment demand under G.S. 55-13-28 by filing a complaint with the Superior Court Division of the General Court of Justice to determine the fair value of the shares and accrued interest. Upon Within 10 days after service upon it of the petition filed with the court, ~~complaint,~~ the corporation shall pay to the dissenter the amount offered by the corporation under G.S. 55-13-25."

PART III. ADVISORY REVIEW OF PRELIMINARY DRAFTS OF DOCUMENTS.

Section 6. Article 1 of Chapter 55 of the General Statutes is amended by adding a new section to read:

"§ 55-1-22.2. Advisory review of documents.

Upon request, the Secretary of State shall provide for the review of a document prior to its submission for filing to determine whether it satisfies the requirements of this Chapter. Submission of a document for review

shall be accompanied by the proper fee and shall be in accordance with procedures adopted by rule by the Secretary of State. The advisory review shall be completed within 24 hours after submission, excluding weekends and holidays, unless the person submitting the document is otherwise notified in accordance with procedures adopted by rule by the Secretary of State fixing priority between submissions under this section and filings under G.S. 55-1-22.1. Upon completion of the advisory review, the Secretary of State shall notify the person submitting the document of any deficiencies in the document that would prevent its filing."

Section 7. Article 1 of Chapter 55A of the General Statutes is amended by adding a new section to read:

"§ 55A-1-22.2. *Advisory review of documents.*

Upon request, the Secretary of State shall provide for the review of a document prior to its submission for filing to determine whether it satisfies the requirements of this Chapter. Submission of a document for review shall be accompanied by the proper fee and shall be in accordance with procedures adopted by rule by the Secretary of State. The advisory review shall be completed within 24 hours after submission, excluding weekends and holidays, unless the person submitting the document is otherwise notified in accordance with procedures adopted by rule by the Secretary of State fixing priority between submissions under this section and filings under G.S. 55A-1-22.1. Upon completion of the advisory review, the Secretary of State shall notify the person submitting the document of any deficiencies in the document that would prevent its filing."

Section 8. Article 1 of Chapter 57C of the General Statutes is amended by adding a new section to read:

"§ 57C-1-22.2. *Advisory review of documents.*

Upon request, the Secretary of State shall provide for the review of a document prior to its submission for filing to determine whether it satisfies the requirements of this Chapter. Submission of a document for review shall be accompanied by the proper fee and shall be in accordance with procedures adopted by rule by the Secretary of State. The advisory review shall be completed within 24 hours after submission, excluding weekends and holidays, unless the person submitting the document is otherwise notified in accordance with procedures adopted by rule by the Secretary of State fixing priority between submissions under this section and filings under G.S. 57C-1-22.1. Upon completion of the advisory review, the Secretary of State shall notify the person submitting the document of any deficiencies in the document that would prevent its filing."

Section 9. Article 5 of Chapter 59 of the General Statutes is amended by adding a new section to read:

"§ 59-206.2. *Advisory review of documents.*

Upon request, the Secretary of State shall provide for the review of a document prior to its submission for filing to determine whether it satisfies the requirements of this Article. Submission of a document for review shall be accompanied by the proper fee and shall be in accordance with procedures adopted by rule by the Secretary of State. The advisory review shall be completed within 24 hours after submission, excluding weekends and holidays, unless the person submitting the document is otherwise

notified in accordance with procedures adopted by rule by the Secretary of State fixing priority between submissions under this section and expedited filings as authorized by G.S. 59-1106. Upon completion of the advisory review, the Secretary of State shall notify the person submitting the document of any deficiencies in the document that would prevent its filing."

Section 10. . G.S. 55-1-22(a) reads as rewritten:

"(a) The Secretary of State shall collect the following fees when the documents described in this subsection are delivered to the Secretary for filing:

Document	Fee
(1) Articles of incorporation	\$100.00
(2) Application for reserved name	10.00
(3) Notice of transfer of reserved name	10.00
(4) Application for registered name	10.00
(5) Application for renewal of registered name	10.00
(6) Corporation's statement of change of registered agent or registered office or both	5.00
(7) Agent's statement of change of registered office for each affected corporation	5.00
(8) Agent's statement of resignation	No fee
(9) Designation of registered agent or registered office or both	5.00
(10) Amendment of articles of incorporation	50.00
(11) Restated articles of incorporation with amendment of articles	10.00
(12) Articles of merger or share exchange	50.00
(13) Articles of dissolution	30.00
(14) Articles of revocation of dissolution	10.00
(15) Certificate of administrative dissolution	No fee
(16) Application for reinstatement following administrative dissolution	25.00
(17) Certificate of reinstatement	No fee
(18) Certificate of judicial dissolution	No fee
(19) Application for certificate of authority	200.00
(20) Application for amended certificate of authority	50.00
(21) Application for certificate of withdrawal	10.00
(22) Certificate of revocation of authority to transact business	No fee
(23) Annual report	10.00
(24) Articles of correction	10.00

(25)	Application for certificate of existence or authorization	5.00
(26)	Any other document required or permitted to be filed by this Chapter	10.00-10.00
(27)	Advisory review of a document	<u>200.00."</u>

Section 11. G.S. 55A-1-22(a) reads as rewritten:

"(a) The Secretary of State shall collect the following fees when the documents described in this subsection are delivered to the Secretary for filing:

	Document	Fee
(1)	Articles of incorporation	\$50.00
(2)	Application for reserved name	\$10.00
(3)	Notice of transfer of reserved name	\$10.00
(4)	Application for registered name	\$10.00
(5)	Application for renewal of registered name	\$10.00
(6)	Corporation's statement of change of registered agent or registered office or both	\$ 5.00
(7)	Agent's statement of change of registered office for each affected corporation	\$ 5.00
(8)	Agent's statement of resignation	No fee
(9)	Designation of registered agent or registered office or both	\$ 5.00
(10)	Amendment of articles of incorporation	\$25.00
(11)	Restated articles of incorporation without amendment of articles	\$10.00
(12)	Restated articles of incorporation with amendment of articles	\$25.00
(13)	Articles of merger	\$25.00
(14)	Articles of dissolution	\$15.00
(15)	Articles of revocation of dissolution	\$10.00
(16)	Certificate of administrative dissolution	No fee
(17)	Application for reinstatement following administrative dissolution	\$25.00 \$100.00
(18)	Certificate of reinstatement	No fee
(19)	Certificate of judicial dissolution	No fee
(20)	Application for certificate of authority	\$100.00
(21)	Application for amended certificate of authority	\$25.00
(22)	Application for certificate of withdrawal	\$10.00
(23)	Certificate of revocation of authority to conduct affairs	No fee
(24)	Corporation's Statement of Change of Principal Office	\$5.00
(24a)	Designation of Principal Office Address	\$5.00
(25)	Articles of correction	\$10.00
(26)	Application for certificate of existence or authorization	\$ 5.00

- (27) Any other document required or permitted to be filed by this Chapter ~~\$10.00.~~\$10.00
 (28) Advisory review of a document \$200.00."

Section 12. G.S. 57C-1-22(a) reads as rewritten:

"(a) The Secretary of State shall collect the following fees when the documents described in this subsection are delivered to the Secretary of State for filing:

Document	Fee
(1) Articles of organization	\$100.00
(2) Application for reserved name	10.00
(3) Notice of transfer of reserved name	10.00
(4) Application for registered name	10.00
(5) Application for renewal of registered name	10.00
(6) Limited liability company's statement of change of registered agent or registered office or both	5.00
(7) Agent's statement of change of registered office for each affected limited liability company	5.00
(8) Agent's statement of resignation	No fee
(9) Designation of registered agent or registered office or both	5.00
(10) Amendment of articles of organization	50.00
(11) Restated articles of organization without amendment of articles	10.00
(12) Restated articles of organization with amendment of articles	50.00
(13) Articles of merger	50.00
(14) Articles of dissolution	30.00
(15) Articles of revocation of dissolution	10.00
(16) Certificate of administrative dissolution	No fee
(16a) <u>Application for reinstatement following administrative dissolution</u>	<u>100.00</u>
(17) Certificate of reinstatement	No fee
(18) Certificate of judicial dissolution	No fee
(19) Application for certificate of authority	200.00
(20) Application for amended certificate of authority	50.00
(21) Application for certificate of withdrawal	10.00
(22) Certificate of revocation of authority to transact business	No fee
(23) Articles of correction	10.00
(24) Application for certificate of existence or authorization	5.00
(25) Annual report	200.00
(26) Any other document required or permitted to be filed by this Chapter	10.00. 10.00
(27) <u>Advisory review of a document</u>	<u>200.00."</u>

Section 13. G.S. 59-1106 reads as rewritten:

"§ 59-1106. Fees.

The Secretary of State shall collect the following fees and remit them to the State Treasurer for the use of the State:

- | | | |
|------|---|---------|
| (1) | For filing a certificate of limited partnership
(G.S. 59-201)..... | \$50.00 |
| (2) | For filing a certificate of amendment
(G.S. 59-202; 59-905) | 25.00 |
| (3) | For filing a certificate of cancellation
(G.S. 59-203; 59-906) | 25.00 |
| (4) | For filing an application for reservation of name
(G.S. 59-104(a)) | 10.00 |
| (5) | For filing a transfer of name
(G.S. 59-104(d)) | 10.00 |
| (6) | For filing an application for registration
as foreign limited partnership
(G.S. 59-502)..... | 50.00 |
| (7) | For preparing and furnishing a copy of any -
document, instrument or paper filed or recorded
relating to a limited partnership (G.S. 59-206(c))
For each page..... | 1.00 |
| | For affixing his <u>the</u> certificate and official seal thereto | 5.00 |
| (8) | For comparing a copy furnished to him of any
document, instrument or paper filed or recorded
relating to a limited partnership
For each page..... | 1.00 |
| (9) | For filing any other document not herein specifically
provided for | 10.00 |
| (10) | For the expedited filing by the end of the same
business day of a document received in good order
by 12:00 noon Eastern Standard Time..... | 200.00 |
| | additional fee | |
| (11) | For the expedited filing of a document received in
good order within 24 hours after receipt, excluding
weekends and holidays..... | 100.00 |
| | additional fee. | |
| | additional fee | |
| (12) | Advisory review of a document | 200.00. |

The Secretary of State shall not collect the fees allowed in subdivisions (10) and (11) of this section unless the person submitting the document for filing requests an expedited filing and is informed by the Secretary of State of the fees prior to the filing of the document. Upon receipt of a document in proper form and payment of the required filing fee, the Secretary of State shall guarantee the expedited filing of the document."

PART IV. CLARIFICATION OF ARTICLES OF CORRECTION PROCEDURES.

Section 14. G.S. 55-1-24(a) reads as rewritten:

"(a) A domestic or foreign corporation may correct a document filed by the Secretary of State if the document (1) contains ~~an incorrect statement a~~

statement that is incorrect and was incorrect when the document was filed or (2) was defectively executed, attested, sealed, verified, or acknowledged."

Section 15. G.S. 55A-1-24(a) reads as rewritten:

"(a) A domestic or foreign corporation may correct a document filed by the Secretary of State if the document (i) contains ~~an incorrect statement~~ a statement that is incorrect and was incorrect when the document was filed or (ii) was defectively executed, attested, sealed, verified, or acknowledged."

Section 16. G.S. 57C-1-24(a) reads as rewritten:

"(a) A domestic or foreign limited liability company may correct a document filed by the Secretary of State if the document (i) contains ~~an incorrect statement~~ a statement that is incorrect and was incorrect when the document was filed or (ii) was defectively ~~executed~~, executed, attested, sealed, verified, or acknowledged."

Section 17. G.S. 59-206(a) is amended by adding a new subdivision to read:

"(2b) A domestic or foreign limited partnership may correct a document filed by the Secretary of State if the document (i) contains a statement that is incorrect and was incorrect when the document was filed or (ii) was defectively executed, attested, sealed, verified, or acknowledged."

PART V. RESTATEMENT OF LIMITED LIABILITY COMPANY ARTICLES OF ORGANIZATION.

Section 18. Article 2 of Chapter 57C of the General Statutes is amended by adding a new section to read:

"§ 57C-2-22.1. *Restated articles of organization.*

(a) A limited liability company may restate its articles of organization at any time with or without member action.

(b) The restated articles of organization may include one or more amendments to the articles. Unless otherwise provided in the articles of organization or a written operating agreement, any amendment requires the unanimous vote of the members. The restated articles of organization may include a statement of the address of the current registered office and the name of the current registered agent of the limited liability company.

(c) A limited liability company restating its articles of organization shall deliver to the Secretary of State for filing articles of restatement that:

(1) Set forth the name of the limited liability company.

(2) Attach as an exhibit thereto the text of the restated articles of organization.

(3) State that the restated articles of organization do not contain an amendment or, if the articles do contain an amendment, that there is an amendment that was approved as required by this Chapter.

(d) Duly adopted restated articles of organization supersede the original articles of organization and all amendments to them.

(e) The Secretary of State may certify restated articles of organization as the articles of organization currently in effect, without including the other information required by subsection (c) of this section."

PART VI. CANCELLATION OF ARTICLES OF DISSOLUTION OF LIMITED LIABILITY COMPANY.

Section 19. Article 6 of Chapter 57C of the General Statutes is amended by adding a new section to read:

"§ 57C-6-06.1. Cancellation of articles of dissolution.

After the filing of articles of dissolution by a limited liability company dissolved pursuant to G.S. 57C-6-01(4) because of the happening of an event of withdrawal, the articles of dissolution may be cancelled if, within 90 days after the event of withdrawal, all remaining members agree in writing that the business of the limited liability company should be continued and the limited liability company files articles of cancellation with the Secretary of State. The articles of cancellation shall set forth:

- (1) The name of the limited liability company;
- (2) The date of the event of withdrawal described in the articles of dissolution;
- (3) The date of filing of the company's articles of dissolution;
- (4) A statement that within 90 days after the event of withdrawal all remaining members have agreed in writing that the business of the limited liability company may be continued; and
- (5) Any other information the members or managers filing the articles of cancellation determine."

Section 20. G.S. 57C-1-22(a) reads as rewritten:

"(a) The Secretary of State shall collect the following fees when the documents described in this subsection are delivered to the Secretary of State for filing:

Document	Fee
(1) Articles of organization	\$100.00
(2) Application for reserved name	10.00
(3) Notice of transfer of reserved name	10.00
(4) Application for registered name	10.00
(5) Application for renewal of registered name	10.00
(6) Limited liability company's statement of change of registered agent or registered office or both	5.00
(7) Agent's statement of change of registered office for each affected limited liability company	5.00
(8) Agent's statement of resignation	No fee
(9) Designation of registered agent or registered office or both	5.00
(10) Amendment of articles of organization	50.00
(11) Restated articles of organization without amendment of articles	10.00
(12) Restated articles of organization with amendment of articles	50.00
(13) Articles of merger	50.00
(14) Articles of dissolution	30.00
(15) <u>Articles Cancellation of articles of revocation of dissolution</u>	10.00
(16) Certificate of administrative dissolution	No fee
(17) Certificate of reinstatement	No fee

(18) Certificate of judicial dissolution	No fee
(19) Application for certificate of authority	200.00
(20) Application for amended certificate of authority	50.00
(21) Application for certificate of withdrawal	10.00
(22) Certificate of revocation of authority to transact business	No fee
(23) Articles of correction	10.00
(24) Application for certificate of existence or authorization	5.00
(25) Annual report	200.00
(26) Any other document required or permitted to be filed by this Chapter	10.00."

PART VII. AVAILABILITY OF LIMITED LIABILITY COMPANY NAME.

Section 21. G.S. 57C-2-30(f) reads as rewritten:

"(f) The name of a limited liability company dissolved under G.S. 57C-6-03 Article 6 of this Chapter may not be used by another limited liability company, business corporation, nonprofit corporation, or limited partnership until the expiration of two years after the effective date of the dissolution until:

- (1) In the case of a dissolution pursuant to G.S. 57C-6-01, the later of (i) the date of filing of articles of dissolution pursuant to G.S. 57C-6-06 or (ii) the expiration of the time within which articles of dissolution of the limited liability company may be canceled pursuant to G.S. 57C-6-06.1; or
- (2) In the case of an administrative dissolution pursuant to G.S. 57C-6-03, the expiration of the period within which the limited liability company may be reinstated pursuant to G.S. 57C-6-03, if the limited liability company's period of duration stated in its articles of organization or written operating agreement has not expired,

unless the dissolved limited liability company changes its name to a name distinguishable upon the records of the Secretary of State from the names of other limited liability companies, business corporations, nonprofit corporations, or limited partnerships organized or transacting business in this State."

PART VIII. AUTHORIZATION OF FACSIMILE SIGNATURES FOR LIMITED PARTNERSHIP DOCUMENTS.

Section 22. G.S. 59-204 is amended by adding a new subsection to read:

"(b1) Any signature on any document authorized to be filed with the Secretary of State under any provision of this Article may be a facsimile."

PART IX. MODIFICATION OF DEFINITION OF FOREIGN PROFESSIONAL CORPORATION.

Section 23. G.S. 55B-16(b) reads as rewritten:

"(b) For purposes of this section, 'foreign professional corporation' means a corporation for profit ~~that is that:~~

- (1) Is incorporated under a law other than the law of this State ~~State;~~

- (2) ~~Is incorporated for the sole and specific purpose of rendering professional services of the type that if rendered in this State would require the obtaining of a license from a licensing board pursuant to the statutory provisions referred to in G.S. 55B-2(6) G.S. 55B-2(6); and that (i) has as its shareholders only individuals who are duly licensed, in this State or some other state, to render the same professional services as the corporation, or (ii) is organized for the purpose of rendering professional services of the type defined in Chapters 83A, 89A, 89C, and 89E of the General Statutes, and has as its shareholders only individuals who are duly licensed, in this State or in another state, to render the same professional services as the corporation or who are nonlicensed employees of the corporation, provided that nonlicensed employees own not more than one-third of the total issued and outstanding shares of the corporation, or (iii) is described in G.S. 55B-15.~~
- (3) Has as its shareholders only individuals who:
- Qualify to hold shares of a corporation organized under this Chapter;
 - Are licensed to provide professional services as defined in G.S. 55B-2(6) in a state in which the corporation is incorporated or is authorized to transact business, provided that such professional services are the same as the professional service rendered by the corporation; or
 - Are nonlicensed employees of a corporation rendering services of the type defined in Chapters 83A, 89A, 89C, and 89E of the General Statutes, provided that all such nonlicensed employees own no more than one-third of the total issued and outstanding shares of such corporation in the aggregate."

PART X. CORRECTION OF DELAYED EFFECTIVE DATE STATUTES FOR LIMITED PARTNERSHIP DOCUMENTS.

Section 24. G.S. 59-201(b) reads as rewritten:

"(b) A Unless a delayed effective date is specified in the certificate of limited partnership, a limited partnership is formed at the time effective time and date of the filing of the certificate of limited partnership in the office of the Secretary of State or at any later time not more than 20 days subsequent to the endorsement of the Secretary of State specified in the certificate of limited partnership if, in either case, if there has been substantial compliance with the requirements of this section."

Section 25. G.S. 59-203 reads as rewritten:

"§ 59-203. *Cancellation of certificate.*

A certificate of limited partnership shall be cancelled upon the dissolution and the commencement of winding up of the partnership or at any other time that there are no limited partners. A certificate of cancellation shall be filed in the office of the Secretary of State and set forth:

- (1) The name of the limited partnership;
- (2) The date of filing of its certificate of limited partnership;
- (3) The reason for filing the certificate of cancellation;

- (4) The effective date ~~(which shall be a date certain not more than 20 days from the date of filing)~~ of cancellation if it is not to be effective upon the filing of the certificate; and
- (5) Any other information the partners filing the certificate determine."

PART XI. REMOVAL OF "CONFORMING TO LAW" LANGUAGE IN REVISED UNIFORM LIMITED PARTNERSHIP ACT.

Section 26. G.S. 59-206(a)(2) reads as rewritten:

- "(2) The original document so signed, together with the conformed copy, shall be delivered to the Secretary of State. Unless If the Secretary finds that it does not conform to law, satisfies the requirements of this Article, the Secretary shall, when the proper fees have been tendered, endorse upon the original the word 'filed' and the hour, day, month and year of the filing thereof and shall file the same in the Secretary's office. The Secretary of State shall thereupon immediately compare the copy with the original and if the Secretary finds that they are identical the Secretary shall make upon the conformed copy the same endorsement which appears on the original and shall attach to the copy a certificate stating that attached thereto is a true copy of the document, designated by an appropriate title, filed in the Secretary's office and showing the date of the filing. The Secretary shall thereupon return the copy so certified to the limited partnership or its representatives. Any documents filed with the Secretary of State pursuant to this Chapter may be maintained by the Secretary either in their original form or in photographic, microfilm, optical disk media, or other reproduced form. The Secretary may make reproductions of documents filed under this Chapter, or under any predecessor act, by photographic, microfilm, optical disk media, or other means of reproduction, and may destroy the originals of the documents reproduced. The Secretary of State may correct apparent errors and omissions on a document submitted for filing if authorized to make the corrections by the person submitting the document for filing. The authorization to make the corrections shall be confirmed, according to procedures adopted by rule, by the Secretary prior to making the correction."

Section 27. G.S. 59-903(a) reads as rewritten:

"(a) If the Secretary of State finds that an application ~~conforms to law~~ satisfies the requirements of this Article, the Secretary shall, when all requisite fees have been tendered as in this Article prescribed:

- (1) Endorse on the application the word 'filed', and the hour, day, month and year of the filing thereof;
- (2) File in ~~his~~ the office the application;
- (3) Issue a certificate of authority to transact business in this State to which ~~he~~ the Secretary shall affix the conformed copy of the application; and

- (4) Send to the foreign limited partnership or its representative the certificate of authority, together with the conformed copy of the application affixed thereto."

PART XII. SINGLE MEMBER LIMITED LIABILITY COMPANIES.

Section 28. G.S. 57C-2-20(a) reads as rewritten:

- "(a) ~~Two~~ **One** or more persons may organize a limited liability company by delivering executed articles of organization to the Secretary of State for filing."

PART XIII. CORPORATE MERGERS.

Section 29. G.S. 55-11-04 reads as rewritten:

"§ 55-11-04. *Merger of with subsidiary.*

(a) Subject to Article 9, a parent corporation owning at least 90 percent (90%) of the outstanding shares of each class of a subsidiary corporation may merge the subsidiary into itself without approval of the shareholders of the parent or subsidiary. Subject to Article 9, a parent corporation owning at least ninety percent (90%) of the outstanding shares of each class of a subsidiary corporation may merge itself into the subsidiary without approval of the shareholders of the subsidiary if the merger is approved by the directors and shareholders of the parent corporation in accordance with G.S. 55-11-01 and G.S. 55-11-03.

(b) The board of directors of the parent shall adopt a plan of merger that sets forth:

- (1) The names of the parent and subsidiary; and
- (2) The manner and basis of converting the shares of ~~the subsidiary~~ each corporation into shares, obligations, or other securities of the parent surviving or any other corporation or into cash or other property in whole or part.

(c) The parent shall mail a copy or summary of the plan of merger to each shareholder of the subsidiary who does not waive the mailing requirement in writing.

(d) The parent may not deliver articles of merger to the Secretary of State for filing until at least 30 days after the date it mailed a copy or summary of the plan of merger to each shareholder of the subsidiary who did not waive the mailing requirement. This subsection does not apply to a merger in which the subsidiary was a public corporation before becoming a subsidiary qualifying for a merger under this section and is still a public corporation on the effective date of the merger.

(e) Articles of merger under this section may not contain amendments to the articles of incorporation of the parent surviving corporation (except for amendments enumerated in G.S. 55-10-02).

(f) The provisions of G.S. 55-13-02(c) do not apply to subsidiary corporations that are parties to mergers consummated under this section."

PART XIV. EFFECTIVE DATES.

Section 30. Section 1 of this act becomes effective July 1, 1998. Sections 2 and 3 of this act become effective July 1, 1997. Sections 14 through 17, 23, 26, 27, and 30 of this act are effective when the act becomes law. The amendments to G.S. 55-1-22(a)(16) and G.S. 55A-1-22(a)(17), made by Sections 10 and 11 of this act, become effective September 1, 1997. G.S. 57C-1-22(a)(16a), as enacted by Section 12 of

this act, becomes effective September 1, 1997. Except as otherwise provided, the remainder of this act becomes effective October 1, 1997. Section 4 of this act applies to dissenters' rights created pursuant to G.S. 55-13-02 on or after October 1, 1997. Section 5 of this act applies to proceedings commenced on or after October 1, 1997. Section 5.1 of this act applies to proceedings commenced on or after October 1, 1997, by dissenters to corporate actions that occurred before October 1, 1997. Sections 6 through 13 of this act apply to requests for review of documents on or after that date.

In the General Assembly read three times and ratified this the 26th day of August, 1997.

Became law upon approval of the Governor at 11:04 a.m. on the 10th day of September, 1997.

H.B. 183

CHAPTER 486

AN ACT TO INCLUDE PRIOR IMPAIRED DRIVING CONVICTIONS IN FELONY PRIOR RECORD LEVEL CALCULATION, AND TO PROVIDE FOR AN INDEFINITE CIVIL SUSPENSION OF A DRIVERS LICENSE WHEN A DRIVER IS CHARGED WITH AN IMPAIRED DRIVING OFFENSE WHILE ANOTHER IMPAIRED DRIVING OFFENSE IS PENDING DISPOSITION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-1340.14(b) reads as rewritten:

"(b) Points. -- Points are assigned as follows:

- (1) For each prior felony Class A conviction, 10 points.
- (1a) For each prior felony Class B1 conviction, 9 points.
- (2) For each prior felony Class B2, C, or D conviction, 6 points.
- (3) For each prior felony Class E, F, or G conviction, 4 points.
- (4) For each prior felony Class H or I conviction, 2 points.
- (5) For each prior Class A1 or Class 1 misdemeanor conviction, conviction or prior impaired driving conviction under G.S. 20-138.1, 1 point, except that convictions for Class 1 misdemeanor offenses under Chapter 20 of the General Statutes, other than conviction for misdemeanor death by vehicle (G.S. 20-141.4(a2)), (G.S. 20-141.4(a2)) and conviction for impaired driving in a commercial vehicle (G.S. 20-138.2), shall not be assigned any points for purposes of determining a person's prior record for felony sentencing.
- (6) If all the elements of the present offense are included in the prior offense, 1 point.
- (7) If the offense was committed while the offender was on probation or parole, or while the offender was serving a sentence of imprisonment, or while the offender was on escape from a correctional institution while serving a sentence of imprisonment, 1 point.

For purposes of determining prior record points under this subsection, a conviction for a first degree rape or a first degree sexual offense committed

prior to the effective date of this subsection shall be treated as a felony Class B1 conviction, and a conviction for any other felony Class B offense committed prior to the effective date of this subsection shall be treated as a felony Class B2 conviction."

Section 2. G.S. 20-16.5(a) reads as rewritten:

"(a) Definitions. -- As used in this section the following words and phrases have the following meanings:

(1) Charging Officer. -- As described in G.S. 20-16.2(a1).

(2) Clerk. -- As defined in G.S. 15A-101(2).

(3) Judicial Official. -- As defined in G.S. 15A-101(5).

(4) Revocation Report. -- A sworn statement by a charging officer and a chemical analyst containing facts indicating that the conditions of subsection (b) have been ~~met~~, met, and whether the person has a pending offense for which their license had been or is revoked under this section. When one chemical analyst analyzes a person's blood and another chemical analyst informs a person of his rights and responsibilities under G.S. 20-16.2, the report must include the statements of both analysts.

(5) Surrender of a Driver's License. -- The act of turning over to a court or a law-enforcement officer the person's most recent, valid driver's license or learner's permit issued by the Division or by a similar agency in another jurisdiction, or a limited driving privilege issued by a North Carolina court. A person who is validly licensed but who is unable to locate his license card may file an affidavit with the clerk setting out facts that indicate that he is unable to locate his license card and that he is validly licensed; the filing of the affidavit constitutes a surrender of the person's license."

Section 3. G.S. 20-16.5(e), as amended by Chapter 379 of the 1997 Session Laws, reads as rewritten:

"(e) Procedure if Report Filed with Judicial Official When Person Is Present. -- If a properly executed revocation report concerning a person is filed with a judicial official when the person is present before that official, the judicial official shall, after completing any other proceedings involving the person, determine whether there is probable cause to believe that each of the conditions of subsection (b) has been met. If he determines that there is such probable cause, he shall enter an order revoking the person's driver's license for the period required in this subsection. The judicial official shall order the person to surrender his license and if necessary may order a law-enforcement officer to seize the license. The judicial official shall give the person a copy of the revocation order. In addition to setting it out in the order the judicial official shall personally inform the person of his right to a hearing as specified in subsection (g), and that his license remains revoked pending the hearing. Unless the person is not currently licensed, the The revocation under this subsection begins at the time the revocation order is issued and continues until the person's license has been ~~surrendered for 30 days and the person has paid the applicable costs~~. If the person is not currently licensed, the revocation continues until 30 days from the date the revocation order is issued and the person has paid the applicable costs.

revoked for the period specified in this subsection, and the person has paid the applicable costs. The period of revocation is 30 days, if there are no pending offenses for which the person's license had been or is revoked under this section. If at the time of the current offense, the person has one or more pending offenses for which his license had been or is revoked under this section, the revocation shall remain in effect until a final judgment, including all appeals, has been entered for the current offense and for all pending offenses. In no event, may the period of revocation under this subsection be less than 30 days. If within five working days of the effective date of the order, the person does not surrender his license or demonstrate that he is not currently licensed, the clerk shall immediately issue a pick-up order. The pick-up order shall be issued to a member of a local law-enforcement agency if the charging officer was employed by the agency at the time of the charge and the person resides in or is present in the agency's territorial jurisdiction. In all other cases, the pick-up order shall be issued to an officer or inspector of the Division. A pick-up order issued pursuant to this section is to be served in accordance with G.S. 20-29 as if the order had been issued by the Division."

Section 4. G.S. 20-16.5(f), as amended by Chapter 379 of the 1997 Session Laws, reads as rewritten:

"(f) Procedure if Report Filed with Clerk of Court When Person Not Present. -- When a clerk receives a properly executed report under subdivision (d)(3) and the person named in the revocation report is not present before the clerk, the clerk shall determine whether there is probable cause to believe that each of the conditions of subsection (b) has been met. If he determines that there is such probable cause, he shall mail to the person a revocation order by first-class mail. The order shall direct that the person on or before the effective date of the order either surrender his license to the clerk or appear before the clerk and demonstrate that he is not currently licensed, and the order shall inform the person of the time and effective date of the revocation and of its duration, of his right to a hearing as specified in subsection (g), and that the revocation remains in effect pending the hearing. Revocation orders mailed under this subsection become effective on the fourth day after the order is deposited in the United States mail. If within five working days of the effective date of the order, the person does not surrender his license to the clerk or appear before the clerk to demonstrate that he is not currently licensed, the clerk shall immediately issue a pick-up order. The pick-up order shall be issued and served in the same manner as specified in subsection (e) for pick-up orders issued pursuant to that subsection. A revocation under this subsection begins at the date specified in the order and continues until the person's license has been revoked for the period specified in this subsection and the person has paid the applicable costs. The If the person has no pending offenses for which his license had been or is revoked under this section, the period of revocation under this subsection is:

- (1) Thirty days from the time the person surrenders his license to the court, if the surrender occurs within five working days of the effective date of the order; or

- (2) Thirty days after the person appears before the clerk and demonstrates that he is not currently licensed to drive, if the appearance occurs within five working days of the effective date of the revocation order; or
- (3) Forty-five days from the time:
 - a. The person's drivers license is picked up by a law-enforcement officer following service of a pick-up order; or
 - b. The person demonstrates to a law-enforcement officer who has a pick-up order for his license that he is not currently licensed; or
 - c. The person's drivers license is surrendered to the court if the surrender occurs more than five working days after the effective date of the revocation order; or
 - d. The person appears before the clerk to demonstrate that he is not currently licensed, if he appears more than five working days after the effective date of the revocation order.

If at the time of the current offense, the person has one or more pending offenses for which his license had been or is revoked under this section, the revocation shall remain in effect until a final judgment, including all appeals, has been entered for the current offense and for all pending offenses. In no event may the period of revocation for the current offense be less than the applicable period of revocation in subdivision (1), (2), or (3) of this subsection. When a pick-up order is issued, it shall inform the person of his right to a hearing as specified in subsection (g), and that the revocation remains in effect pending the hearing. An officer serving a pick-up order under this subsection shall return the order to the court indicating the date it was served or that he was unable to serve the order. If the license was surrendered, the officer serving the order shall deposit it with the clerk within three days of the surrender."

Section 5. G.S. 20-16.5(p), as enacted by Section 3.4 of Chapter 379 of the 1997 Session Laws, reads as rewritten:

"(p) **Limited Driving Privilege.** -- A person whose drivers license has been revoked for a specified period of 30 or 45 days under this section may apply for a limited driving privilege if:

- (1) At the time of the alleged offense the person held either a valid drivers license or a license that had been expired for less than one year;
- (2) Does not have an unresolved pending charge involving impaired driving except the charge for which the license is currently revoked under this section or additional convictions of an offense involving impaired driving since being charged for the violation for which the license is currently revoked under this section;
- (3) The person's license has been revoked for at least 10 days if the revocation is for 30 days or 30 days if the revocation is for 45 days; and
- (4) The person has obtained a substance abuse assessment from a mental health facility and registers for and agrees to participate in any recommended training or treatment program.

A person whose license has been indefinitely revoked under this section may, after completion of 30 days under subsection (e) or the applicable period of time under subdivision (1), (2), or (3) of subsection (f), apply for a limited driving privilege. In the case of an indefinite revocation, a judge of the division in which the current offense is pending may issue the limited driving privilege only if the privilege is necessary to overcome undue hardship and the person meets the eligibility requirements of G.S. 20-179.3, except that the requirements in G.S. 20-179.3(b)(1)c. and G.S. 20-179.3(e) shall not apply. Except as modified in this subsection, the provisions of G.S. 20-179.3 relating to the procedure for application and conduct of the hearing and the restrictions required or authorized to be included in the limited driving privilege apply to applications under this subsection. Any district court judge authorized to hold court in the judicial district is authorized to issue such a limited driving privilege. A limited driving privilege issued under this section authorizes a person to drive if the person's license is revoked solely under this section. If the person's license is revoked for any other reason, the limited driving privilege is invalid."

Section 6. G.S. 20-16.5(k), as amended by Chapter 379 of the 1997 Session Laws, reads as rewritten:

"(k) Report to Division. -- Except as provided below, the clerk shall mail a report to the Division within Division:

- (1) If the license is revoked indefinitely, within 10 working days of the revocation of the license; and
- (2) In all cases, within 10 working days of the return of a license under this section or of the termination of a revocation of the driving privilege of a person not currently licensed.

The report shall identify the person whose license has been ~~revoked and~~ revoked, specify the date on which his license was ~~revoked~~, revoked, and indicate whether the license has been returned. The report must also provide, if applicable, whether the license is revoked indefinitely. No report need be made to the Division, however, if there was a surrender of the driver's license issued by the Division, a 30-day minimum revocation was imposed, and the license was properly returned to the person under subsection (h) within five working days after the 30-day period had elapsed."

Section 7. The Judicial Department shall implement the provisions of this act from existing funds available to it.

Section 8. Section 1 of this act becomes effective December 1, 1997. Sections 2 through 6 of this act become effective July 1, 1998. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 27th day of August, 1997.

Became law upon approval of the Governor at 11:07 a.m. on the 10th day of September, 1997.

H.B. 1087

CHAPTER 487

AN ACT TO MAKE TRESPASSING WITH A MOTORIZED ALL TERRAIN VEHICLE A MISDEMEANOR.

The General Assembly of North Carolina enacts:

Section 1. Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-159.3. Trespass to land on motorized all terrain vehicle.

(a) No person shall operate any motorized all terrain vehicle:

(1) On any private property not owned by the operator, without the consent of the owner; or

(2) Within the banks of any stream or waterway, the adjacent lands of which are not owned by the operator, without the consent of the owner or outside the restrictions imposed by the owner.

(b) A 'motorized all terrain vehicle', as used in this section, is a two or more wheeled vehicle designed for recreational off-road use.

(c) A violation of this section shall be a Class 2 misdemeanor."

Section 2. G.S. 14-134.2 reads as rewritten:

"§ 14-134.2. Operating motor vehicle upon utility easements after being forbidden to do so.

If any person, without permission, shall ride, drive or operate a minibike, motorbike, motorcycle, jeep, dune buggy, automobile, truck or any other motor vehicle vehicle, other than a motorized all terrain vehicle as defined in G.S. 14-159.3, upon a utility easement upon which the owner or holder of the easement or agent of the owner or holder of the easement has posted on the easement a "no trespassing" sign or has otherwise given oral or written notice to the person not to so ride, drive or operate such a vehicle upon the said easement, he shall be guilty of a Class 3 misdemeanor, provided, however, neither the owner of the property nor the holder of the easement or their agents, employees, guests, invitees or permittees shall be guilty of a violation under this section."

Section 3. This act becomes effective December 1, 1997, and applies to acts committed on or after that date.

In the General Assembly read three times and ratified this the 27th day of August, 1997.

Became law upon approval of the Governor at 11:09 a.m. on the 10th day of September, 1997.

S.B. 30

CHAPTER 488

AN ACT TO ALLOW AN INCREASED PENALTY FOR SPEEDING IN A HIGHWAY WORK ZONE OF UP TO TWO HUNDRED FIFTY DOLLARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-141(j2) reads as rewritten:

"(j2) A person who drives a motor vehicle in a highway work zone at a speed greater than the speed limit set and posted under G.S. 20-141 is responsible for an infraction of 'Speeding in a Highway Work Zone' and is shall be required to pay a penalty of not less than one hundred dollars (\$100.00). (\$100.00), but not more than two hundred fifty dollars (\$250.00). A 'highway work zone' is the area between the first sign that informs motorists of the existence of a work zone on a highway and the last

sign that informs motorists of the end of the work zone. This subsection applies only if a sign posted at the beginning of the highway work zone states the penalty for speeding in the work zone. The Secretary shall ensure that work zones shall only be posted with penalty signs if the Secretary determines, after engineering review, that the posting is necessary to ensure the safety of the traveling public due to a hazardous condition."

Section 2. This act becomes effective October 1, 1997, and applies to violations which occur on or after that date.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law upon approval of the Governor at 11:10 a.m. on the 10th day of September, 1997.

S.B. 122

CHAPTER 489

AN ACT TO ALLOW A CONTRACTOR ON A PUBLIC PROJECT, ON BEHALF OF A SUBCONTRACTOR, TO FILE AN ACTION AGAINST THE OWNER REGARDING A CLAIM ARISING OUT OF THE CONTRACT BETWEEN THE SUBCONTRACTOR AND THE CONTRACTOR FOR THE SAME PROJECT THAT IS THE SUBJECT OF THE CONTRACT BETWEEN THE CONTRACTOR AND THE OWNER AND TO MAKE NO DAMAGE FOR DELAY CLAUSES IN PUBLIC CONTRACTS UNENFORCEABLE.

The General Assembly of North Carolina enacts:

Section 1. Article 8 of Chapter 143 of the General Statutes is amended by adding the following new sections to read:

"§ 143-134.2. Actions by contractor on behalf of subcontractor.

(a) A contractor may, on behalf of a subcontractor of any tier under the contractor, file an action against an owner regarding a claim arising out of or relating to labor, materials, or services furnished by the subcontractor to the contractor pursuant to a contract between the subcontractor and the contractor for the same project that is the subject of the contract between the contractor and the owner.

(b) In any action filed by a contractor against an owner under subsection (a) of this section, it shall not be a defense that the costs and damages at issue were incurred by a subcontractor and that subcontractor has not been paid for these costs and damages. The owner shall not be required to pay the contractor for the costs and damages incurred by a subcontractor, unless the subcontractor submits proof to the court that the contractor has paid these costs and damages to the subcontractor.

"§ 143-134.3. No damage for delay clause.

No contractual language forbidding or limiting compensable damages for delays caused solely by the owner or its agent may be enforced in any construction contract let by any board or governing body of the State, or of any institution of State government, or of any county, city, town, or other political subdivision thereof. For purposes of this section, the phrase 'owner or its agent' does not include prime contractors or their subcontractors."

Section 2. This act becomes effective October 1, 1997, and applies to contracts entered into on or after that date.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law upon approval of the Governor at 11:13 a.m. on the 10th day of September, 1997.

S.B. 39

CHAPTER 490

AN ACT TO REVISE THE SETOFF DEBT COLLECTION ACT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 105A of the General Statutes reads as rewritten:

"Chapter 105A.

"Setoff Debt Collection Act.

"ARTICLE 1.

"In General.

"§ 105A-1. *Purposes.*

The purpose of this Article Chapter is to establish as policy that all claimant agencies and the Department of Revenue shall cooperate in identifying debtors who owe money to the State or to a local government through its their various claimant agencies and who qualify for refunds from the Department of Revenue. It is also the intent of this Article Chapter that procedures be established for setting off against any such refund the sum of any debt owed to the State, State or to a local government. Furthermore, it is the legislative intent that this Article Chapter be liberally construed so as to effectuate these purposes as far as legally and practically possible.

"§ 105A-2. *Definitions.*

The following definitions apply in this Chapter:

(1) Claimant agency. -- Either of the following:

a. A State agency.

b. A local agency acting through a clearinghouse or an organization pursuant to G.S. 105A-3(b1).

(2) Debt. -- Any of the following:

a. A sum owed to a claimant agency that has accrued through contract, subrogation, tort, operation of law, or any other legal theory regardless of whether there is an outstanding judgment for the sum.

b. A sum a claimant agency is authorized or required by law to collect, such as child support payments collectible under Title IV, Part D of the Social Security Act.

c. A sum owed as a result of an intentional program violation or a violation due to inadvertent household error under the Food Stamp Program enabled by Chapter 108A, Article 2, Part 5.

e. A sum owed as a result of having obtained public assistance payments under any of the following programs through an intentional false statement, intentional misrepresentation, intentional failure to disclose a material fact, or inadvertent household error:

1. The Aid to Families with Dependent Children Program or the Aid to Families with Dependent Children -- Emergency Assistance Program, enabled by Chapter 108A, Article 2, Part 2.
2. The Work First Cash Assistance Program established pursuant to federal waivers received by the Department of Human Resources on February 5, 1996.
3. The State-County Special Assistance for Adults Program, enabled by Chapter 108A, Article 2, Part 3.
4. A successor program of one of these programs.
- (3) Debtor. -- An individual who owes a debt.
- (4) Department. -- The Department of Revenue.
- (5) Reserved.
- (6) Local agency. -- A county, to the extent it is not considered a State agency, or a municipality.
- (7) Net proceeds collected. -- Gross proceeds collected through setoff against a debtor's refund minus the collection assistance fee retained by the Department.
- (8) Refund. -- An individual's North Carolina income tax refund.
- (9) State agency. -- Any of the following:
 - a. A unit of the executive, legislative, or judicial branch of State government.
 - b. A county, to the extent it administers a program supervised by the Department of Human Resources or it operates a Child Support Enforcement Program, enabled by Chapter 110, Article 9, and Title IV, Part D of the Social Security Act.

As used in this Article:

- (1) "Claimant agency" means and includes:
 - a. The State Education Assistance Authority as enabled by Article 23 of Chapter 116 of the General Statutes;
 - b. The North Carolina Department of Human Resources when in the exercise of its authority to collect health profession student loans made pursuant to G.S. 131-121;
 - c. The North Carolina Department of Human Resources when in the performance of its duties under the Medical Assistance Program enabled by Chapter 108A, Article 2, Part 6, and any county operating the same Program at the local level, when and only to the extent such a county is in the performance of Medical Assistance Program collection functions;
 - d. The North Carolina Department of Human Resources when in the performance of its duties, under the Child Support Enforcement Program as enabled by Chapter 110, Article 9 and Title IV, Part D of the Social Security Act to obtain indemnification for past paid public assistance or to collect child support arrearages owed to an individual receiving program services and any county operating the program at the local level, when and only to the extent that the county is engaged in the performance of those same duties;

- e. ~~The University of North Carolina, including its constituent institutions as specified by G.S. 116-2(4);~~
- f. ~~The University of North Carolina Hospitals at Chapel Hill in the conduct of its financial affairs and operations pursuant to G.S. 116-37;~~
- g. ~~The Board of Governors of the University of North Carolina and the State Board of Education through the College Scholarship Loan Committee when in the performance of its duties of administering the Scholarship Loan Fund for Prospective College Teachers enabled by Chapter 116, Article 5;~~
- h. ~~The Office of the North Carolina Attorney General on behalf of any State agency when the claim has been reduced to a judgment;~~
- i. ~~The State Board of Community Colleges through community colleges as enabled by Chapter 115D in the conduct of their financial affairs and operations;~~
- j. ~~State facilities as listed in G.S. 122C-181(a), School for the Deaf at Morganton, North Carolina Sanatorium at McCain, Western Carolina Sanatorium at Black Mountain, Eastern North Carolina Sanatorium at Wilson, and Gravelly Sanatorium at Chapel Hill under Chapter 143, Article 7; Governor Morehead School under Chapter 115, Article 40; Central North Carolina School for the Deaf under Chapter 115, Article 41; Wright School for Treatment and Education of Emotionally Disturbed Children under Chapter 122C; and these same institutions by any other names by which they may be known in the future;~~
- k. ~~The North Carolina Department of Revenue;~~
- l. ~~The Administrative Office of the Courts;~~
- m. ~~The Division of Forest Resources of the Department of Environment, Health, and Natural Resources;~~
- n. ~~The Administrator of the Teachers' and State Employees' Comprehensive Major Medical Plan, established in Article 3 of General Statutes Chapter 135;~~
- o. ~~The State Board of Education through the Superintendent of Public Instruction when in the performance of his duties of administering the Scholarship Loan Fund for Prospective Teachers enabled by Chapter 115C, Article 32A and the scholarship loan and grant programs enabled by Chapter 115C, Article 24C, Part 1;~~
- p. ~~The Board of Trustees of the Teachers' and State Employees' Retirement System and the Board of Trustees of the Local Governmental Employees' Retirement System in the performance of their duties pursuant to Chapters 120, 128, 135 and 143 of the General Statutes;~~
- q. ~~The North Carolina Teaching Fellows Commission in the performance of its duties pursuant to Chapter 115C, Article 24C, Part 2;~~

- r. ~~The North Carolina Department of Human Resources when in the performance of its collection duties for intentional program violations and violations due to inadvertent household error under the Food Stamp Program enabled by Chapter 108A, Article 2, Part 5, and any county operating the same Program at the local level, when and only to the extent such a county is in the performance of Food Stamp Program collection functions.~~

~~The North Carolina Department of Human Resources when, in the performance of its duties under the Aid to Families with Dependent Children Program or the Aid to Families with Dependent Children -- Emergency Assistance Program provided in Part 2 of Article 2 of Chapter 108A or the Work First Cash Assistance Program established pursuant to the federal waivers received by the Department on February 5, 1996, or under the State-County Special Assistance for Adults Program provided in Part 3 of Article 2 of Chapter 108A, it seeks to collect public assistance payments obtained through an intentional false statement, intentional misrepresentation, intentional failure to disclose a material fact, or inadvertent household error;~~

- s. ~~The Employment Security Commission of North Carolina.~~
 t. ~~Any State agency in the collection of salary overpayments from former employees.~~
 u. ~~The State Board of Education through the Superintendent of Public Instruction when in the performance of his duties of administering the program under which the State encourages participation in the National Board for Professional Teaching Standards (NBPTS) Program, enabled by Section 19.28 of Chapter 769 of the 1993 Session Laws.~~
- (2) ~~"Debtor" means any individual owing money to or having a delinquent account with any claimant agency which obligation has not been adjudicated satisfied by court order, set aside by court order, or discharged in bankruptcy.~~
- (3) ~~"Debt" means any liquidated sum due and owing any claimant agency which has accrued through contract, subrogation, tort, operation of law, or any other legal theory regardless of whether there is an outstanding judgment for that sum.~~
- (4) ~~"Department" means the North Carolina Department of Revenue.~~
- (5) ~~"Refund" means any individual's North Carolina income tax refund.~~
- (6) ~~"Net proceeds collected" means gross proceeds collected through final setoff against a debtor's refund minus any collection assistance fee charged by the Department.~~

"§ 105A-3. Remedy additional; mandatory State usage; optional local usage; obtaining identifying information; information; registration."

(a) Remedy Additional. -- The collection remedy under this Article Chapter is in addition to and not in substitution for any other remedy available by law.

(b) Mandatory State Usage. -- All claimant agencies shall submit, for collection under the procedure established by this Article, all debts which they are owed, except debts that they are advised by A State agency must submit a debt owed to it for collection under this Chapter unless the State Controller has waived this requirement or the Attorney General has advised the State agency not to submit the debt because the validity of the debt is legitimately in dispute, because an alternative means of collection is pending and believed to be adequate, or because such a collection attempt would result in a loss of federal funds. The State Controller may waive the requirement for a State agency, other than the Department of Human Resources or a county acting on behalf of that Department, to submit a debt owed to it for collection under this Chapter if the State Controller finds that collection by this means would not be practical or cost effective. A waiver may apply to all debts owed a State agency or a type of debt owed a State agency.

(b1) Optional Local Usage. -- A local agency may submit a debt owed to it for collection under this Chapter. A local agency that decides to submit a debt owed to it for collection under this Chapter must establish the debt by following the procedure set in G.S. 105A-5 and must submit the debt through one of the following:

- (1) A clearinghouse that is established pursuant to an interlocal agreement adopted under Article 20 of Chapter 160A of the General Statutes and has agreed to submit debts on behalf of any requesting local agency.
- (2) The North Carolina League of Municipalities.
- (3) The North Carolina Association of County Commissioners.

(c) Identifying Information. -- All claimant agencies shall whenever possible obtain the full name, social security number, address, and any other identifying information required by rules promulgated by the Department pursuant to G.S. 105A-16 from any person for whom the agencies provide any service or transact any business and who the claimant agencies can foresee may become a debtor under this Article. Chapter.

(d) Registration and Reports. -- A claimant State agency must register with the Department and with the State Controller. Every State agency must report annually to the Department State Controller the amount of debts owed to the agency for which the agency did not submit a claim for setoff and the reason for not submitting the claim.

A clearinghouse or an organization that submits debts on behalf of a local agency must register with the Department. Once a clearinghouse registers with the Department under this subsection, no other clearinghouse may register to submit debts for collection under this Chapter.

"§ 105A-4. Minimum sum collectible, debt and refund.

A claimant agency shall not be allowed to effect final setoff and collect debts through use of the remedy established under this Article unless both the debt and the refund, if any, are This Chapter applies only to a debt that is at least fifty dollars (\$50.00), (\$50.00) and to a refund that is at least this same amount.

"§ 105A-5. Local agency notice, hearing, and decision.

(a) Prerequisite. -- A local agency may not submit a debt for collection under this Chapter until it has given the notice required by this section and the claim has been finally determined as provided in this section.

(b) Notice. -- A local agency must send written notice to a debtor that the agency intends to submit the debt owed by the debtor for collection by setoff. The notice must explain the basis for the agency's claim to the debt and that the agency intends to apply the debtor's refund against the debt. The notice must also inform the debtor that the debtor has the right to contest the matter by filing a request for a hearing with the local agency, must state the time limits and procedure for requesting the hearing, and must state that failure to request a hearing within the required time will result in setoff of the debt.

(c) Administrative Review. -- A debtor who decides to contest a proposed setoff must file a written request for a hearing with the local agency within 30 days after the date the local agency mails a notice of the proposed action to the debtor. A request for a hearing is considered to be filed when it is delivered for mailing with postage prepaid and properly addressed. The governing body of the local agency or a person designated by the governing body must hold the hearing.

If the debtor disagrees with the decision of the governing body or the person designated by the governing body, the debtor may file a petition for a contested case under Article 3 of Chapter 150B of the General Statutes. The petition must be filed within 30 days after the debtor receives a copy of the local decision. Notwithstanding the provisions of G.S. 150B-2, a local agency is considered an agency for purposes of contested cases and appeals under this Chapter.

In a hearing under this section, an issue that has previously been litigated in a court proceeding cannot be considered.

(d) Decision. -- A decision made after a hearing under this section must determine whether a debt is owed to the local agency and the amount of the debt.

(e) Return of Amount Set Off. -- If a local agency submits a debt for collection under this Chapter without sending the notice required by subsection (b) of this section, the agency must send the taxpayer the entire amount set off plus the collection assistance fee retained by the Department. Similarly, if a local agency submits a debt for collection under this Chapter after sending the required notice but before final determination of the debt and a decision finds that the local agency is not entitled to any part of the amount set off, the agency must send the taxpayer the entire amount set off plus the collection assistance fee retained by the Department. That portion of the amount returned that reflects the collection assistance fee must be paid from the local agency's funds.

If a local agency submits a debt for collection under this Chapter after sending the required notice and the net proceeds collected that are credited to the local agency for the debt exceed the amount of the debt, the local agency must send the balance to the debtor. No part of the collection assistance fee retained by the Department may be returned when a notice was sent and a debt is owed but the debt is less than the amount set off.

Interest accrues on the amount of a refund returned to a taxpayer under this subsection in accordance with G.S. 105-266. A local agency that returns a refund to a taxpayer under this subsection must pay from the local agency's funds any interest that has accrued since the fifth day after the Department mailed the notice of setoff to the taxpayer.

Collection of sums due claimant agencies through setoff.

Subject to the limitations contained in this Article, the Department of Revenue shall upon request render assistance in the collection of any delinquent account or debt owing to any claimant agency. This assistance shall be provided by setting off any refunds due the debtor from the Department by the sum certified by claimant agency as due and owing.

"§ 105A-6. Procedure for Department to follow in making setoff.

(a) Notice to Department. -- A claimant agency seeking to attempt collection of a debt through setoff shall must notify the Department in writing and supply (i) information necessary to identify the debtor whose refund is sought to be set off and (ii) off. The claimant agency may include with the notification the date, if any, that the debt is expected to expire. Notification to the Department and the furnishing of identifying information must occur on or before a date specified by the Department in the first year preceding the calendar year during which the refund would be paid. The notice is effective to initiate setoff against refunds that would be made in calendar years following the year in which the notice was first made until the date specified in the notice that the debt is expected to expire. The agency shall must notify the Department in writing when a debt has been paid or is no longer owed the agency.

(b) Setoff by Department. -- The Department, upon receipt of notification, shall must determine each year whether the debtor to the claimant agency is entitled to a refund of at least fifty dollars (\$50.00) from the Department. Upon determination by the Department that a debtor specified by a claimant agency qualifies for such a refund, the Department shall notify in writing the claimant agency that a refund is pending, specify its sum, and indicate the debtor's address as listed on the tax return.

(c) Unless stayed by court order, the Department shall, upon certification as provided in this Article, must set off the certified debt against the refund to which the debtor would otherwise be entitled, entitled and must refund any remaining balance to the debtor. The Department must mail the debtor written notice that the setoff has occurred and must credit the net proceeds collected to the claimant agency. If the claimant agency is a State agency, that agency must credit the amount received to a nonreverting trust account and must follow the procedure set in G.S. 105A-8.

"§ 105A-7. Notification of intention to set off and right to hearing.

(a) The claimant agency, upon receipt of notification from the Department that a debtor is entitled to a refund, shall within 10 days send a written notification to the debtor and a copy of same to the Department of its assertion of rights to the refund or any part thereof. Such notification shall inform the debtor of the claimant agency's intention to direct the Department to apply the refund or any portion thereof against the debt certified as due and owing. For the Department to be obligated to continue holding refunds until receipt of certification of the debt, if any, pursuant to G.S. 105A-10,

~~the copy of the notification to the debtor by the claimant agency of its intention to set off must be received by the Department within 15 days of the date of the Department's mailing to the respective claimant agency the notification of the debtor's entitlement to a refund.~~

~~(b) The contents of the written notification to the debtor (and the Department's copy) of the setoff claim shall clearly set forth the basis for the claim to the refund, the intention to apply the refund against the debt to the claimant agency, the debtor's opportunity to give written notice of intent to contest the validity of the claim within 30 days of the date of the mailing of the notice, the mailing address to which the application for a hearing must be sent, and the fact that failure to apply for a hearing in writing within the 30-day period will be deemed a waiver of the opportunity to contest the claim causing final setoff by default.~~

~~(c) The written application by the debtor for a hearing shall be effective upon mailing the application postage prepaid and properly addressed to the claimant agency.~~

~~"§ 105A-8. Hearing procedure. State agency notice, hearing, decision, and refund of setoff.~~

~~(a) Notice. -- Within 10 days after a State agency receives a refund of a debtor, the agency must send the debtor written notice that the agency has received the debtor's refund. The notice must explain the debt that is the basis for the agency's claim to the debtor's refund and that the agency intends to apply the refund against the debt. The notice must also inform the debtor that the debtor has the right to contest the matter by filing a request for a hearing, must state the time limits and procedure for requesting the hearing, and must state that failure to request a hearing within the required time will result in setoff of the debt. A State agency that does not send a debtor a notice within the time required by this subsection must refund the amount set off plus the collection assistance fee, in accordance with subsection (c) of this section.~~

~~(b) Hearing. -- A hearing on a contested claim of a State agency, except a constituent institution of The University of North Carolina or the Employment Security Commission, must be conducted in accordance with Article 3 of Chapter 150B of the General Statutes. A hearing on a contested claim of a constituent institution of The University of North Carolina must be conducted in accordance with administrative procedures approved by the Attorney General. A hearing on a contested claim of the Employment Security Commission must be conducted in accordance with rules adopted by that Commission. A request for a hearing on a contested claim of any State agency must be filed within 30 days after the State agency mails the debtor notice of the proposed setoff. A request for a hearing is considered to be filed when it is delivered for mailing with postage prepaid and properly addressed. In a hearing under this section, an issue that has previously been litigated in a court proceeding cannot be considered.~~

~~(c) Decision. -- A decision made after a hearing under this section must determine whether a debt is owed to the State agency and the amount of the debt.~~

~~(d) Return of Amount Set Off. -- If a State agency fails to send the notice required by subsection (a) of this section within the required time or a~~

decision finds that a State agency is not entitled to any part of an amount set off, the agency must send the taxpayer the entire amount set off plus the collection assistance fee retained by the Department. That portion of the amount returned that reflects the collection assistance fee must be paid from the State agency's funds.

If a debtor owes a debt to a State agency and the net proceeds credited to the State agency for the debt exceed the amount of the debt, the State agency must send the balance to the debtor. No part of the collection assistance fee retained by the Department may be returned when a debt is owed but it is less than the amount set off.

Interest accrues on the amount of a refund returned to a taxpayer under this subsection in accordance with G.S. 105-266. A State agency that returns a refund to a taxpayer under this subsection must pay from the State agency's funds any interest that has accrued since the fifth day after the Department mailed the notice of setoff to the taxpayer.

(a) A hearing on a contested claim, other than a claim of a constituent institution of The University of North Carolina, or a claim of the Employment Security Commission of North Carolina, shall be conducted in accordance with Article 3 of Chapter 150B of the General Statutes. A hearing on a contested claim of a constituent institution of The University of North Carolina shall be conducted in accordance with administrative procedures approved by the Attorney General. A hearing on a contested claim of the Employment Security Commission of North Carolina shall be conducted in accordance with regulations adopted by the Employment Security Commission of North Carolina. Additionally, it shall be determined at the hearing whether the claimed sum asserted as due and owing is correct, and if not, an adjustment to the claim shall be made.

(b) Pending final determination at hearing of the validity of the debt asserted by the claimant agency, no action shall be taken in furtherance of collection through the setoff procedure allowed under this Article.

(c) No issues may be considered at the hearing which have been previously litigated.

"§ 105A-9. Appeals from hearings.

Appeals from action taken at hearings allowed under this Article Chapter, other than those conducted by the Employment Security Commission, shall be in accordance with the provisions of Chapter 150B of the General Statutes, the Administrative Procedure Act, except that the place of initial judicial review shall be the superior court for the county in which the debtor resides. Appeals from actions hearings allowed under this Article Chapter that are conducted by the Employment Security Commission of North Carolina shall be in accordance with the provisions of Chapter 96 of the General Statutes.

"§ 105A-10. Certification of debt by claimant agency; finalization of setoff.

(a) Upon final determination through hearing provided by G.S. 105A-8 of the debt due and owing the claimant agency or upon the debtor's default for failure to comply with G.S. 105A-7 mandating timely request for review of the asserted basis for setoff, the claimant agency shall within 20 days certify the debt to the Department and in default thereof, the Department shall no longer be obligated to hold the refund for setoff.

~~(b) Upon receipt by the Department of a certified debt from the claimant agency, the Department shall finalize the setoff by transferring the net proceeds collected for credit or payment in accordance with the provisions of G.S. 105A-14 and by refunding any remaining balance to the debtor as if setoff had not occurred.~~

~~"§ 105A-11. Notice of final setoff.~~

~~Upon the finalization of setoff under the provisions of this Article, the Department shall notify the debtor in writing of the action taken along with an accounting of the action taken on any refund. If there is an outstanding balance after setoff, the notice under this section shall accompany the balance when disbursed.~~

~~"§ 105A-12. Priorities in claims to setoff.~~

~~Priority in multiple claims to refunds allowed to be set off under the provisions of this Article shall be in the order in time which a claimant agency has filed a written notice with the Department of its intention to effect collection through setoff under this Article. Notwithstanding the priority set forth above according to time of filing, the The Department has priority over all other claimant agencies for collection by setoff whenever it is a competing agency for a refund. State agencies have priority over local agencies for collection by setoff. When there are multiple claims by State agencies other than the Department, the claims have priority based on the date each agency registered with the Department under G.S. 105A-3. When there are multiple claims by two or more organizations submitting debts on behalf of local agencies, the claims have priority based on the date each organization registered with the Department under G.S. 105A-3. When there are multiple claims among local agencies whose debts are submitted by the same organization, the claims have priority based on the date each local agency requested the organization to submit debts on its behalf.~~

~~"§ 105A-13. Disposition of proceeds collected; collection Collection assistance fees.~~

~~(a) Upon effecting final setoffs, the Department shall periodically write checks to the respective claimant agencies for the net proceeds collected on their behalf.~~

~~(b) Each year the Department shall determine its actual cost of collection under the Setoff Debt Collection Act for the immediately preceding year and shall calculate the percentage that cost represents of the preceding year's collections, excluding collections of child support arrearages under G.S. 105A-2(1)d. The Department shall retain that percentage from the gross proceeds collected by the Department through setoff for the current year, other than the gross proceeds collected of child support arrearages under G.S. 105A-2(1)d. To recover the costs incurred by the Department in collecting debts under this Chapter, a collection assistance fee of no more than fifteen dollars (\$15.00) is imposed on each debt collected through setoff. The Department must collect this fee as part of the debt and retain it. The Department must set the amount of the collection assistance fee based on its actual cost of collection under this Chapter for the immediately preceding year. If the Department is able to collect only part of a debt through setoff, the collection assistance fee has priority over the remainder of the debt. The collection assistance fee shall not be added to child support~~

debts or collected as part of child support debts. Instead, the Department shall retain from collections under Division II of Article 4 of Chapter 105 of the General Statutes the cost of collecting child support debts under this Chapter.

"§ 105A-14. *Accounting to the claimant agency; credit to debtor's obligation.*

(a) Simultaneously with the transmittal of ~~a check for the~~ net proceeds collected to a claimant agency, the Department ~~shall~~ must provide the agency with an accounting of the setoffs ~~finalized~~ for which payment is being made. The accounting ~~shall~~ must whenever possible, include the full names of the debtors, the debtors' social security numbers, the gross proceeds collected per individual setoff, the net proceeds collected per setoff, and the collection assistance fee added to the debt and collected ~~charged~~ per setoff.

(b) Upon receipt by a claimant agency of ~~a check representing~~ net proceeds collected on ~~a the~~ claimant agency's behalf by the Department, a final determination of the claim if it is a State agency claim, and an accounting of the proceeds as specified under this section, the claimant agency ~~shall~~ must credit the debtor's obligation with the ~~gross net~~ proceeds collected.

"§ 105A-15. *Confidentiality exemption; nondisclosure.*

(a) Notwithstanding G.S. 105-259 or any other provision of law prohibiting disclosure by the Department of the contents of taxpayer records or information and notwithstanding any confidentiality statute of any claimant agency, ~~all the exchange of any information exchanged among the Department, the claimant agency, the organization submitting debts on behalf of a local agency, and the debtor necessary to accomplish and effectuate the intent of this Article~~ implement this Chapter is lawful.

(b) ~~The information obtained by a claimant agency or an organization submitting debts on behalf of a local agency obtains from the Department in accordance with the exemption allowed by subsection (a) shall only may be used by a claimant the agency or organization only in the pursuit of its debt collection duties and practices and any person employed by, or formerly employed by, a claimant agency who discloses any such information for any other purpose, except as otherwise allowed by G.S. 105-259, shall be penalized in accordance with the terms of that statute. practices and may not be disclosed except as provided in G.S. 105-259, 153A-148.1, or 160A-208.1.~~

"§ 105A-16. *Rules and regulations. Rules.*

~~The Secretary of Revenue is authorized to prescribe forms and make all rules which he deems necessary in order to effectuate the intent of this Article. may adopt rules to implement this Chapter. The State Controller may adopt rules to implement this Chapter."~~

Section 2. G.S. 105-266(b) reads as rewritten:

"(b) Interest. -- An overpayment of tax bears interest at the rate established in G.S. 105-241.1(i) from the date that interest begins to accrue until a refund is paid. A refund sent to a taxpayer is considered paid on a date determined by the Secretary that is no sooner than five days after a refund check is mailed.

A refund set off against a debt pursuant to Chapter 105A of the General Statutes is considered paid five days after the Department mails the taxpayer

a notice of the setoff, unless G.S. 105A-5 or G.S. 105A-8 requires the agency that requested the setoff to return the refund to the taxpayer. In this circumstance, the refund that was set off is not considered paid until five days after the agency that requested the refund mails the taxpayer a check for the refund.

Interest on an overpayment of a tax, other than a tax levied under Article 4 or Article 8B of this Chapter, accrues from a date 90 days after the date the tax was originally paid by the taxpayer until the refund is paid. Interest on an overpayment of a tax levied under Article 4 or Article 8B of this Chapter accrues from a date 45 days after the latest of the following dates until the refund is paid:

- (1) The date the final return was filed.
- (2) The date the final return was due to be filed.
- (3) The date of the overpayment.

The date of an overpayment of a tax levied under Article 4 or Article 8B of this Chapter is determined in accordance with section 6611(d), (f), (g), and (h) of the Code."

Section 3. The State Controller is directed to study whether it is desirable and feasible for the State to establish a central clearinghouse for compiling debt set-off information required by the Department of Revenue to comply with Chapter 105A of the General Statutes. In conducting the study, the State Controller shall consider which State agency is the most appropriate agency to serve as a clearinghouse and the costs and benefits of developing a clearinghouse, including the extent to which separate agencies must establish duplicative functions in the absence of a central clearinghouse.

The State Controller shall report the findings of this study to the Revenue Laws Study Committee by February 16, 1998. The Revenue Laws Study Committee shall report any recommendations on this issue to the 1998 Regular Session of the General Assembly.

Section 4. Section 3 of this act and the changes to G.S. 105A-3(d) and G.S. 105A-16 made by this act are effective when this act becomes law. The changes to G.S. 105A-5 made by this act become effective January 1, 1999. The remainder of this act becomes effective January 1, 2000, and applies to income tax refunds determined on or after that date.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law upon approval of the Governor at 11:15 a.m. on the 10th day of September, 1997.

S.B. 445

CHAPTER 491**AN ACT TO ALLOW THE NORTH CAROLINA BOARD OF NURSING TO ENTER INTO INTERSTATE COMPACTS TO FACILITATE THE PRACTICE AND REGULATION OF NURSING.**

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-171.23(b) is amended by adding a new subdivision to read:

"(17) Enter into interstate compacts to facilitate the practice and regulation of nursing."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law upon approval of the Governor at 11:17 a.m. on the 10th day of September, 1997.

S.B. 712

CHAPTER 492

AN ACT TO CERTIFY CLINICAL ADDICTIONS SPECIALISTS, PROVIDE SPECIFIC AUTHORITY FOR CERTIFICATION OF CLINICAL SUPERVISORS AND RESIDENTIAL FACILITY DIRECTORS, AND TO MAKE A TECHNICAL CHANGE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-113.30 reads as rewritten: —

"§ 90-113.30. Declaration of purpose.

The North Carolina Substance Abuse Professionals Professional Certification Board, established by G.S. 90-113.32, is recognized as the certifying authority for ~~certified substance abuse counselors and certified substance abuse prevention consultants~~ substance abuse professionals described in this Article in order to safeguard the public health, safety, and welfare, to protect the public from being harmed by unqualified persons, to assure the highest degree of professional care and conduct on the part of ~~certified substance abuse counselors and certified substance abuse prevention consultants~~, professionals, to provide for the establishment of standards for the education of ~~substance abuse counselors and substance abuse prevention consultants~~, certified substance abuse professionals, and to ensure the availability of ~~substance abuse counseling services and substance abuse prevention services~~ certified substance abuse professional services of high quality to persons in need of these services. It is the purpose of this Article to provide for the regulation of Board-certified persons offering substance abuse counseling services, substance abuse prevention services, or any other substance abuse services for which the Board may grant certification."

Section 2. G.S. 90-113.31 reads as rewritten:

"§ 90-113.31. Definitions.

~~In this Article, unless the context clearly requires otherwise, the~~ The following definitions shall apply in this Article:

- (1) "Board" means the Board. -- The North Carolina Substance Abuse Professionals Professional Certification Board.
- (1a) Certified clinical additions specialist. -- A person certified by the Board to practice as a clinical additions specialist in accordance with the provisions of this Article.
- (1b) Certified clinical supervisor. -- A person certified by the Board to practice as a clinical supervisor in accordance with the provisions of this Article.

- (1c) Certified residential facility director. -- A person certified by the Board to practice as a residential facility director in accordance with the provisions of this Article.
- (2) ~~"Certified substance abuse counselor" means any Certified substance abuse counselor. -- A person certified by the Board to practice as a substance abuse counseling counselor in accordance with the provisions of this Article.~~
- (3) ~~"Substance abuse counseling" means the assessment, evaluation, or provision of counseling to persons suffering from substance abuse or dependency, alcohol abuse or dependency, or drug abuse or dependency.~~
- (4) ~~"Certified substance abuse prevention consultant" means any Certified substance abuse prevention consultant. -- A person certified by the Board to practice substance abuse prevention in accordance with the provisions of this Article.~~
- (4a) Credentialing body. -- A board that licenses, certifies, or regulates a profession or practice.
- (4b) Deemed status. -- Recognition by the Board of the credentials offered by a professional discipline whereby the individuals certified, licensed, or otherwise recognized by the discipline as having met the standards of a substance abuse specialist may apply individually for certification as a certified clinical addictions specialist.
- (4c) Human services field. -- An area of study that focuses on the biological, psychological, and social aspects of human beings.
- (4d) Intern. -- A person who successfully completes 300 hours of Board approved supervised practical training and a written examination in pursuit of certification as a substance abuse counselor.
- (5) ~~"Prevention" means the Prevention. -- The reduction, delay, or avoidance of alcohol and of other drug use behavior. 'Prevention' includes the promotion of positive environments and individual strengths that contribute to personal health and well-being over an entire life and the development of strategies that encourage individuals, families, and communities to take part in assessing and changing their lifestyle and environments.~~
- (6) Professional discipline. -- A field of study characterized by the technical, educational, and ethical standards of a profession.
- (7) Substance abuse counseling. -- The assessment, evaluation, and provision of counseling to persons suffering from substance, drug, or alcohol abuse or dependency.
- (8) Substance abuse professional. -- A certified substance abuse counselor, certified substance abuse prevention consultant, certified clinical supervisor, certified clinical addictions specialist, or certified residential facility director."

Section 3. G.S. 90-113.32 reads as rewritten:

"§ 90-113.32. ~~Board.~~ Board; composition; voting.

(a) The Board is created as the certifying authority for substance abuse counselors ~~counselors~~, and substance abuse prevention consultants

consultants, clinical supervisors, clinical addictions specialists, and residential facility directors in North Carolina.

(b) Until the full Board is elected or appointed pursuant to subsection (c) of this section, the Board shall consist of 16 members with one member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121, and one member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121. The remaining 14 shall be those members of the current North Carolina Substance Abuse Professionals Professional Certification Board, Inc., who have terms that are unexpired as of the effective date of this Article. The initial Board shall appoint an initial Nominating and Elections Committee to fill immediate vacancies on the Board, using the process established in subsection (d) of this section. The election and appointment process of the initial Board shall result in a Board of 19 members by April 1, 1995. As these initial members' terms expire, their successors shall be appointed as described in subsection (c) of this section, until the permanent Board is established, as described in subsection (c) of this section. Time spent as an initial member counts in determining the limitation on consecutive terms prescribed in subsection (e) of this section.

(c) After the initial Board members' terms expire, the Board shall consist of 19 the following members, all of whom shall reside in North Carolina, appointed or elected as follows:

- (1) Eleven professionals certified pursuant to this Article and elected by the certified professionals, at least two of whom shall serve each of the four Division of Mental Health, Developmental Disabilities, and Substance Abuse Services regions of the State; State. Three members shall serve as members at large.
- (2) Three members at large chosen from laypersons or other professional disciplines who have shown a special interest in the field of substance abuse, nominated by the Nominations and Elections Committee established by subsection (d) of this section and elected by the Board; Board.
- (3) Two members from the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, Department of Human Resources, appointed by the Chief of Substance Abuse Services Section, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, Department of Human Resources, at least one of whom is from the Substance Abuse Services Section; Section.
- (4) One member of the public at large appointed by the Governor; and Governor.
- (5) One member of the public at large appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121 and one member of the public at large appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121.

- (6) One member shall represent each of the professional disciplines granted deemed status under G.S. 90-113.41A. The member may be appointed by the professional discipline on or before a date set by the Board. If the professional discipline has at least one association in the State, the member shall be chosen from a list of nominees submitted to the association. The members appointed or elected under this subdivision shall be certified as substance abuse specialists by the professional discipline that the members represent.

No member of the General Assembly shall serve on the Board.

(c1) Every member of the Board shall have the right to vote on all matters before the Board, except for the President who shall vote only in case of a tie or when another member of the Board abstains on the question of whether the professional discipline the member represents shall retain its deemed status.

(d) The Board shall appoint five professionals from the field of substance abuse counseling and substance abuse prevention consulting to serve on the Nominating and Elections Committee. Of these five, at least three shall not be members of the Board. The Board shall appoint a member of the Nominating and Elections Committee to serve as chair. The Committee's purpose is to accept nominations from professionals certified by the Board to fill vacancies on the Board in membership categories prescribed by subdivisions (1) and (2) of subsection (c) of this section and to conduct the election of Board members. The Committee shall solicit nominations from all professionals it has certified under this Article whenever such a vacancy occurs and when elected members' terms are due to expire. The certified professionals shall submit to the Committee all nominations within 90 days beginning 90 days and ending 14 days before the election of new Board members. The Committee shall furnish all certified professionals with a ballot containing all the nominees for each elected Board member vacancy. In soliciting and making nominations for this process, the Committee shall give consideration to factors that promote representation on the Board by professionals certified by the Board. The Committee shall serve for a two-year term, its successors to be appointed for the same term by the Board.

(e) Members of the Board shall serve for three-year terms. No Board member shall serve for more than two consecutive terms, but a person who has been a member for two consecutive terms may be reappointed after being off the Board for a period of at least one year. When a vacancy occurs in an unexpired term, the Board shall, as soon as practicable, appoint temporary members to serve until the next membership election. Time spent as a temporary member does not count in determining the limitation on consecutive terms.

(f) If a member becomes ineligible to serve on the Board for any reason, except when the member has committed an ethical violation that results in the suspension or revocation of the member's professional credentials, the member may fulfill the remainder of the member's term on the Board."

Section 4. G.S. 90-113.33 reads as rewritten:

"§ 90-113.33. Board; powers and duties.

The Board shall:

- (1) Examine and determine the qualifications and fitness of applicants for certification to practice in this State ~~as substance abuse counselors and as substance abuse prevention consultants; State.~~
- (1a) Determine the qualifications and fitness of organizations applying for deemed status.
- (2) Issue, renew, deny, suspend, or revoke certification to practice in this State or reprimand or otherwise discipline ~~substance abuse counselors and substance abuse prevention consultants~~ certified holders in this State; State. However, disciplinary actions involving a clinical addictions specialist whose certification is achieved through deemed status shall be initially heard by the specialist's credentialing body. The specialist may appeal the body's decision to the Board. The Board shall, however, have the authority to hear the initial disciplinary action involving a clinical addictions specialist.
- (3) Deal with issues concerning ~~reciprocity; reciprocity.~~
- (4) Conduct investigations for the purpose of determining whether violations of this Article or grounds for disciplining ~~exist; exists.~~
- (5) Employ the professional and clerical personnel necessary to carry out the provisions of this Article. The Board may purchase or rent necessary office space, equipment, and ~~supplies; supplies.~~
- (6) Conduct administrative hearings in accordance with Chapter 150B of the General Statutes when a 'contested case', as defined in Chapter 150B, ~~arises; arises.~~
- (7) Appoint from its own membership one or more members to act as representatives of the Board at any meeting in which it considers this representation is ~~desirable; desirable.~~
- (8) Establish fees for applications for examination, certificates of certification and renewal, and other services provided by the ~~Board; and Board.~~
- (9) Adopt any rules necessary to carry out the purpose of this Article and its duties and responsibilities pursuant to this Article.

The powers and duties enumerated in this section are granted for the purposes of enabling the Board to safeguard the public health, safety, and welfare against unqualified or incompetent practitioners and are to be liberally construed to accomplish this objective. When the Board exercises its authority under this Article to discipline a person, it may, as part of the decision imposing the discipline, charge the costs of investigations and the hearing to the person disciplined."

Section 5. G.S. 90-113.34 reads as rewritten:

"§ 90-113.34. *Records to be kept; copies of records.*

The Board shall obtain documentation of all proceedings under this Article and a record of all persons certified under it. The record shall show the name, last known place of business, last known place of residence, and date and number of the certificate of certification as a certified substance abuse ~~counselor or counselor,~~ certified substance abuse prevention consultant consultant, certified clinical supervisor, certified clinical addictions specialist, or certified residential facility director for every living certified person. Any interested person in the State is entitled to obtain a

copy of that record on application to the Board and upon payment of a reasonable charge that is based on the costs involved in providing the copy. The Board shall keep a hard copy of all records."

Section 6. G.S. 90-113.37 reads as rewritten:

"§ 90-113.37. *Renewal of certification; lapse; revival.*

(a) Every person certified pursuant to this Article who desires to maintain certification status shall apply to the Board for a renewal of certification every other year and pay to the secretary-treasurer the prescribed fee. Renewal of certification is subject to completion of no more than 60 hours of those continuing education requirements established by the Board. A clinical supervisor shall also complete 15 hours of substance abuse clinical supervision or training prior to the certificate being renewed. Certification that is not renewed automatically lapses, unless the Board provides for the late renewal of certification upon the payment of a late fee. No late renewal shall be granted more than five years after a certification expires. A suspended certification is subject to this section's renewal requirements and may be renewed as provided in this section. This renewal does not entitle the certified person to engage in the certified activity or in any other conduct or activity in violation of the order or judgment by which the certification was suspended, until the certification is reinstated. If a certification revoked on disciplinary grounds is reinstated and requires renewal, the certified person shall pay the renewal fee and any applicable late fee.

(b) The Board shall establish the manner in which lapsed certification may be revived or extended."

Section 7. G.S. 90-113.38 reads as rewritten:

"§ 90-113.38. *Maximums for certain fees.*

(a) The combined fees fee to obtain a certificate of certification as a substance abuse counselor, substance abuse prevention consultant, clinical supervisor, or residential facility director may not exceed three hundred dollars (\$300.00), three hundred twenty-five dollars (\$325.00). The fee to renew a certificate may not exceed one hundred dollars (\$100.00).

(b) The fee to obtain a certificate of certification for a clinical addictions specialist pursuant to G.S. 90-113.41A may not exceed one hundred dollars (\$100.00). The fee to renew a certificate may not exceed fifty dollars (\$50.00). The fee to obtain a certificate of certification for a clinical addictions specialist under G.S. 90-113.40 may not exceed three hundred twenty-five dollars (\$325.00). The fee to renew the certificate may not exceed one hundred dollars (\$100.00).

(c) There shall be a reexamination fee of one hundred dollars (\$100.00) which shall be paid for each reexamination in addition to the fees required under subsection (a) of this section."

Section 8. G.S. 90-113.39 reads as rewritten:

"§ 90-113.39. *Standards for certification.*

The Board shall establish standards for certification of substance abuse professionals. The certification standards of the International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse and ~~of the National Association of Alcoholism and Drug Abuse Counselors~~ the standards adopted by professional disciplines granted deemed status may be used as guidelines

for the Board's standards. The Board shall publish these required standards separately from its rules so as to provide easy access to the standards."

Section 9. G.S. 90-113.40 reads as rewritten:

"§ 90-113.40. *Requirements for certification.*

(a) The Board shall issue a certificate certifying an applicant as a ~~"Certified Substance Abuse Counselor"~~ 'Certified Substance Abuse Counselor' or as a ~~"Certified Substance Abuse Prevention Consultant"~~ 'Certified Substance Abuse Prevention Consultant' if:

- (1) The applicant is of good moral ~~character;~~ character.
 - (2) The applicant is not and has not engaged in any practice or conduct that would be grounds for disciplinary action under G.S. 90-113.44; G.S. 90-113.44.
 - (3) The applicant is qualified for certification pursuant to the requirements of this Article and any rules adopted pursuant to it; it.
 - (4) The applicant has, at a minimum, a high school diploma or a high school equivalency ~~certificate;~~ certificate.
 - (5) The applicant has signed a form attesting to the intention to adhere fully to the ethical standards adopted by the ~~Board;~~ Board.
 - (6) The applicant has completed 270 hours of Board-approved ~~education;~~ education. The Board may prescribe that a certain number of hours be in a course of study for substance abuse counseling and that a certain number of hours be in a course of study for substance abuse prevention consulting.
 - (7) The applicant has documented completion of a minimum of 300 hours of Supervised Practical Training and has provided a Board-approved supervision contract between the applicant and an approved ~~supervisor;~~ supervisor.
 - (8) The applicant for substance abuse counselor has completed either a total of ~~three years~~ 6,000 hours of supervised experience in the field, whether paid or volunteer, or, if a graduate of a Board-approved master's degree program, a total of ~~18 months~~ 3,000 hours of supervised experience in the field, whether paid or ~~volunteer;~~ and volunteer. The applicant for substance abuse prevention consultant has completed a total of 10,000 hours supervised experience in the field, whether paid or volunteer, or 4,000 hours if the applicant has at least a bachelors degree in a human services field.
 - (9) The applicant has successfully completed a written examination and an oral examination promulgated and administered by the Board.
- (b) The Board shall issue a certificate certifying an individual as a 'Certified Clinical Supervisor' if, in addition to meeting the requirements of subdivisions (a)(1) through (5) of this section, the applicant:
- (1) Has been certified as a substance abuse counselor or a clinical addictions specialist.
 - (2) Prior to June 30, 1998, the applicant presents proof that the applicant has 12,000 hours experience in alcohol and drug abuse counseling and a bachelors degree or 8,000 hours experience in alcohol and drug abuse counseling and a minimum of a master's

degree. After June 30, 1998, the applicant shall present proof that the applicant has a minimum of a master's degree.

- (3) Has 6,000 hours experience as a substance abuse clinical supervisor if the applicant has a bachelors degree or 4,000 hours experience if the applicant has a master's degree.
- (4) Has 30 hours of substance abuse clinical supervision specific education or training. These hours shall be reflective of the 12 core functions in the applicant's clinical application and practice and may also be counted toward the applicant's recertification as a substance abuse counselor.
- (5) Submits a letter of reference from a professional who can attest to the applicant's supervisory competence and two letters of reference from either counselors who have been supervised by the applicant or professionals who can attest to the applicant's competence.
- (6) Successfully completes a written examination administered by the Board.

(c) The Board shall issue a certificate certifying an applicant as a 'Certified Clinical Addictions Specialist' if, in addition to meeting the requirements of subdivisions (a)(1) through (5) of this section, the applicant meets one of the following criteria:

- (1) Criteria A. -- The applicant:
 - a. Has a minimum of a master's degree with a clinical application in a human services field.
 - b. Has two years postgraduate supervised substance abuse counseling experience.
 - c. Submits three letters of reference from certified clinical addictions specialists or certified substance abuse professionals.
 - d. Has achieved a combined score set by the Board on a master's level written and oral examination administered by the Board.
 - e. Has attained 180 hours of substance abuse specific training as described in G.S. 90-113.41A.
- (2) Criteria B. -- The applicant:
 - a. Has a minimum of a master's degree with a clinical application in a human services field.
 - b. Has been certified as a substance abuse counselor.
 - c. Has one year of postgraduate supervised substance abuse counseling experience.
 - d. Has achieved a passing score on a master's level written examination administered by the Board.
 - e. Submits three letters of reference from certified clinical addictions specialists or certified substance abuse professionals.
- (3) Criteria C. -- The applicant:
 - a. Has a minimum of a master's degree in a human services field with a substance abuse specialty that includes 180 hours of substance abuse specific education and training pursuant to G.S. 113.41A.
 - b. Has one year of postgraduate supervised substance abuse counseling experience.

c. Has achieved a passing score on an oral examination administered by the Board.

d. Submits three letters of reference from certified clinical addictions specialists or certified substance abuse professionals.

(4) Criteria D. -- The applicant has a substance abuse certification from a professional discipline that has been granted deemed status by the Board.

(d) The Board shall issue a certificate certifying an applicant as a 'Certified Residential Facility Director' if, in addition to meeting the requirements of subdivisions (a)(1) through (5) of this section, the applicant:

(1) Has been certified as a substance abuse counselor.

(2) Has 50 hours of Board approved academic or didactic management specific training or a combination thereof.

(3) Submits letters of reference from the applicant's current supervisor and a colleague or coworker.

(e) The Board shall publish from time to time information in order to provide specifics for potential applicants of an acceptable educational curriculum and the terms of acceptable supervised fieldwork experience."

Section 10. G.S. 90-113.41 reads as rewritten:

"§ 90-113.41. *Examination.*

(a) Except for those individuals applying for certification under G.S. 90-113.41A, Applicants applicants for certification under this Article shall file an application at least 60 days prior to the date of examination and upon the forms and in the manner prescribed by the Board. The application shall be accompanied by the appropriate fee. No portion of this fee is refundable. Applicants who fail an examination may apply for reexamination upon the payment of another examination fee.

(b) Each applicant for certification under this Article shall be examined in an examination that is consistent with the examination requirements of the International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse. Abuse and the standards adopted by professional disciplines granted deemed status.

(c) Applicants for certification shall be examined at a time and place and under the supervision that the Board determines. Examinations shall be given in this State at least twice each year.

(d) Applicants may obtain their examination scores and may review their examination papers in accordance with rules the Board adopts."

Section 11. Article 5C of Chapter 90 of the General Statutes is amended to add a new section to read:

"§ 90-113.41A. *Deemed status.*

(a) To be granted deemed status by the Board, a credentialing body of a professional discipline or its designee shall demonstrate that its substance abuse certification program substantially meets the following:

(1) Each person to whom the credentialing body awards credentials following the effective date of this act meets and maintains minimum requirements in substance abuse specific content areas. Each person also has a minimum of a master's degree with a clinical application in a human services field.

- (2) The body requires 180 hours, or the equivalent thereof, of substance abuse specific education and training that covers the following content areas:
- a. Basic addiction and cross addiction Physiology and Pharmacology of Psychoactive drugs that are abused.
 - b. Screening, assessment, and intake of clients.
 - c. Individual, group, and family counseling.
 - d. Treatment, planning, reporting, and record keeping.
 - e. Crisis intervention.
 - f. Case management and treatment resources.
 - g. Ethics, legal issues, and confidentiality.
 - h. Psychological, emotional, personality, and developmental issues.
 - i. Coexisting physical and mental disabilities.
 - j. Special population issues, including age, gender, race, ethnicity, and health status.
 - k. Traditions and philosophies of recovery treatment models and support groups.

- (3) The program requires one year or its equivalent of post-degree supervised clinical substance abuse practice. At least fifty percent (50%) of the practice shall consist of direct substance abuse clinical care.

(b) The professional discipline seeking deemed status shall require its members to adhere to a code of ethical conduct and shall enforce that code with disciplinary action.

(c) The Board may grant deemed status to any professional discipline that substantially meets the standards in this section. Once such status has been granted, an individual within the professional discipline may apply to the Board for certification as a certified clinical addictions specialist.

(d) The Standards and Credentialing Committee of the Board shall review the standards of each professional discipline every third year from the date it was granted deemed status to determine if the discipline continues to substantially meet the requirements of this section. If the Committee finds that a professional discipline no longer meets the requirements of this section, it shall report its findings to the Board at the Board's next regularly scheduled meeting. The deemed status standing of a professional discipline's credential may be discontinued by a two-thirds vote of the Board."

Section 12. G.S. 90-113.42 reads as rewritten:

"§ 90-113.42. Exemptions.

It is not the intent of this Article to regulate members of other regulated professions who provide substance abuse services or consultation in the normal course of the practice of their profession. Accordingly, this Article does not apply to any person registered, certified, or licensed by the State to practice any other occupation or profession while rendering substance abuse services or consultation in the performance of the occupation or profession for which ~~he the person~~ is registered, certified, or licensed. Only individuals certified under this Article may use the title "~~certified substance abuse counselor~~" or "~~certified substance abuse prevention consultant~~" certified

substance abuse counselor, certified substance abuse prevention consultant, certified clinical supervisor, certified clinical addictions specialist, or certified residential facility director."

Section 13. G.S. 90-113.43 reads as rewritten:

"§ 90-113.43. *Illegal practice; misdemeanor penalty.*

Except as otherwise authorized in this Article, no person shall:

- (1) Practice, attempt to practice, or supervise while holding out to be a certified substance abuse counselor or a counselor, certified substance abuse prevention consultant consultant, certified clinical supervisor, certified clinical addictions specialist, or certified residential facility director without first having obtained a certificate of certification from the ~~Board~~; Board.
- (2) Use in connection with any name any letters, words, numerical codes, or insignia indicating or implying that this person is a certified substance abuse counselor or a counselor, certified substance abuse prevention consultant consultant, certified clinical supervisor, certified clinical addictions specialist, or certified residential facility director unless this person is certified pursuant to this ~~Article~~; Article.
- (3) Practice or attempt to practice as a certified substance abuse counselor or counselor, certified substance abuse prevention consultant consultant, certified clinical supervisor, certified clinical addictions specialist, or certified residential facility director with a revoked, lapsed, or suspended certification; certification.
- (4) Aid, abet, or assist any uncertified person to practice as a certified substance abuse counselor or counselor, certified substance abuse prevention consultant consultant, certified clinical supervisor, certified clinical addictions specialist, or certified residential facility director in violation of this ~~Article~~; Article.
- (5) Knowingly serve in a position required by State law or rule or federal law or regulation to be filled by a certified substance abuse counselor or a counselor, certified substance abuse prevention consultant consultant, certified clinical supervisor, certified clinical addictions specialist, or certified residential facility director unless that person is so certified under this ~~Article~~; or Article.
- (6) ~~Otherwise violate any of the provisions of this Article or any of the rules adopted pursuant to it.~~
- (7) Practice, supervise, or attempt to practice or supervise or knowingly serve in a position required by State law or rule or federal law or regulation to be filled by a designated substance abuse intern without being designated as such by the Board.

A person who engages in any of the illegal practices enumerated by this section is guilty of a Class 1 misdemeanor. Each act of unlawful practice constitutes a distinct and separate offense."

Section 14. G.S. 90-113.44 reads as rewritten:

"§ 90-113.44. *Grounds for disciplinary action.*

Grounds for disciplinary action include:

- (1) The employment of fraud, deceit, or misrepresentation in obtaining or attempting to obtain certification or renewal of ~~certification~~; certification.
- (2) The use of drugs or alcoholic beverages to the extent that professional competency is affected, until proof of rehabilitation can be established; ~~established.~~
- (3) Conviction of an offense under any municipal, State, or federal narcotic or controlled substance law, until proof of rehabilitation can be ~~established~~; established.
- (4) Conviction of a felony or other public offense involving moral turpitude, until proof of rehabilitation can be ~~established~~; established.
- (5) An adjudication of insanity or incompetency, until proof of recovery from this condition can be ~~established~~; established.
- (6) Engaging in any act or practice violative of any of the provisions of this Article or any of the rules adopted pursuant to it, or aiding, abetting, or assisting any other person in such a ~~violation~~; violation.
- (7) The commission of an act of malpractice, gross negligence, or incompetence in the practice of substance abuse counseling or in counseling, substance abuse prevention consulting; consulting, clinical supervising, or in serving as a clinical addictions specialist or residential facility director.
- (8) Practicing as a certified substance abuse counselor or as a counselor, certified substance abuse prevention consultant consultant, certified clinical supervisor, certified clinical addictions specialist or certified residential facility director without a valid certificate; and certificate.
- (9) Engaging in conduct that could result in harm or injury to the public."

Section 15. G.S. 90-113.46 reads as rewritten:

"§ 90-113.46. *Application of requirements of Article.*

All persons certified by the North Carolina Substance Abuse Professionals Professional Certification Board, Inc., as of July 1, 1994, shall be certified by the Board pursuant to this Article. All these persons are subject to all the other requirements of this Article and of the rules adopted pursuant to it."

Section 16. Article 5C of Chapter 90 of the General Statutes is amended by adding the following new section:

"§ 90-113.47. *Third-party reimbursement.*

Nothing in this Article shall be construed to require direct third-party reimbursements to persons certified under this Article."

Section 17. Notwithstanding G.S. 90-113.40(c), as enacted by Section 9 of this act, the North Carolina Substance Abuse Professional Certification Board (Board) may certify a person as a 'Clinical Addictions Specialist' during a limited period of one year after the effective date of this act upon the submission of proof of one of the following to the Board:

- (1) Certification as a substance abuse counselor holding a master's degree with a clinical application in a human services field; the equivalent of two years of full-time post-graduate supervised

substance abuse experience; and three letters of reference from certified substance abuse professionals who have master's degrees.

- (2) Certification as a substance abuse counselor with a bachelors degree in a human services field; the equivalent of five years of full-time, post-graduate, supervised substance abuse experience; a passing score on a master's level written examination; and submission of three letters of reference from certified substance abuse professionals who have master's degrees.
- (3) Certification as a clinical supervisor; a master's degree with a clinical application in a human services field; and three letters of reference from certified substance abuse professionals who have master's degrees.
- (4) Certification as a substance abuse counselor; a master's degree with a clinical application in a human services field with a substance abuse specialty; and three letters of reference from certified substance abuse professionals who have master's degrees.
- (5) Certification before July 1, 1994, as an alcohol counselor, a drug and alcohol counselor, or a substance abuse counselor; the equivalent of 10 years of documented full-time substance abuse work experience; and three letters of reference from certified substance abuse professionals who have master's degrees.
- (6) Certification, licensure, or membership in good standing with a professional discipline that has been granted deemed status under G.S. 90-113.41A, as enacted by Section 11 of this act.

Section 18. Notwithstanding G.S. 90-113.40(c), as enacted by Section 9 of this act, the Board may certify an applicant as a "Clinical Addictions Specialist" during a limited period of three years beginning October 1, 1998, if the applicant completes and submits proof to the Board that the applicant: (i) has been certified as a substance abuse counselor; (ii) has the equivalent of 10 years of supervised, full-time, substance abuse counseling experience; (iii) has passed a master's level oral and written examination and; (iv) submits three letters of reference from certified substance abuse professionals who hold master's degrees.

Section 19. This act becomes effective October 1, 1997.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law upon approval of the Governor at 11:19 a.m. on the 10th day of September, 1997.

S.B. 114

CHAPTER 493

AN ACT TO ESTABLISH A FRAMEWORK FOR DEVELOPING AND IMPLEMENTING COOPERATIVE STATE-LOCAL WATER QUALITY PROTECTION PLANS FOR RIVER BASINS AND SEGMENTS OF RIVER BASINS AND TO EXPEDITE THE PERMANENT CLOSURE OF LOW-RISK SITES UNDER THE LEAKING PETROLEUM UNDERGROUND STORAGE TANK CLEANUP ACT OF 1988.

The General Assembly of North Carolina enacts:

Section 1. Part 1 of Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-214.14. Cooperative State-local coalition water quality protection plans.

(a) Definitions. -- The following definitions apply in this section:

- (1) 'Basin' means a river basin as defined in G.S. 143-215.22G or any subbasin or segment thereof.
- (2) 'Coalition plan' means a water quality protection plan developed by a coalition of local governments for water quality protection of a basin.
- (3) 'Local government' means a city, county, special district, authority, or other political subdivision of the State.
- (4) 'Water quality protection' means management of water use, quantity, and quality.

(b) Legislative Findings. -- This section establishes a framework to encourage State-local pollutant reduction strategies for basins under the supervision and coordination of the Commission. The General Assembly finds that:

- (1) Water quality conditions and sources of water contamination may vary from one basin to another.
- (2) Water quality conditions and sources of water contamination may vary within a basin.
- (3) Some local governments have demonstrated greater capacity than others to protect and improve water quality conditions.
- (4) In some areas of the State artificial alteration of watercourses by surface water impoundments or other means may have a significant effect on water quality.
- (5) Imposition of standard basinwide water quality protection requirements and strategies may not equitably address the varying conditions and needs of all areas.
- (6) There is a need to develop distinct approaches to address water quality protection in basins in the State, drawing upon the resources of local governments and the State, under the supervision and coordination of the Commission.

(c) Legislative Goals and Policies. -- It is the goal of the General Assembly that, to the extent practicable, the State shall adopt water quality protection plans that are developed and implemented in cooperation and coordination with local governments and that the State shall adopt water quality protection requirements that are proportional to the relative contributions of pollution from all sources in terms of both the loading and proximity of those sources. Furthermore, it is the goal of the General Assembly to encourage and support State-local partnerships for improved water quality protection through the provision of technical and financial assistance available through the Clean Water Management Trust Fund, the Wetlands Restoration Fund, water quality planning and project grant programs, the State's revolving loan and grant programs for water and wastewater facilities, other funding sources, and future appropriations. The

Commission shall implement these goals in accordance with the standards, procedures, and requirements set out in this section.

(d) The Commission may, as an alternative method of attaining water quality standards in a basin, approve a coalition plan proposed by a coalition of local governments whose territorial area collectively includes the affected basin in the manner provided by this section. The Commission may approve a coalition plan proposed by a coalition of local governments whose territorial area or water quality protection plan does not include all of an affected basin if the Commission determines that the omission will not adversely affect water quality.

(e) A coalition of local governments choosing to propose a coalition plan to the Commission shall do so through a nonprofit corporation the coalition of local governments incorporates with the Secretary of State.

(f) The Commission may approve a coalition plan only if the Commission first determines that:

- (1) The basin under consideration is an appropriate unit for water quality planning.
 - (2) The coalition plan meets the requirements of subsection (g) of this section.
 - (3) The coalition of local governments has formed a nonprofit corporation pursuant to subsection (e) of this section.
 - (4) The coalition plan has been approved by the governing board of each local government that is a member of the coalition of local governments proposing the coalition plan.
 - (5) The coalition plan will provide a viable alternative method of attaining equivalent compliance with federal and State water quality standards, classifications, and management practices in the affected basin.
- (g) A coalition plan shall include all of the following:
- (1) An assessment of water quality and related water quantity management in the affected basin.
 - (2) A description of the goals and objectives for protection and improvement of water quality and related water quantity management in the affected basin.
 - (3) A workplan that describes proposed water quality protection strategies, including point and nonpoint source programs, for achieving the specified goals and objectives; an implementation strategy including specified tasks, timetables for action, implementation responsibilities of State and local agencies; and sources of funding, where applicable.
 - (4) A description of the performance indicators and benchmarks that will be used to measure progress in achieving the specified goals and objectives, and an associated monitoring framework.
 - (5) A timetable for reporting to the Commission on progress in implementing the coalition plan.

(h) A coalition plan shall cover a specified period. The coalition plan may provide for the phasing in of specific strategies, tasks, or mechanisms by specified dates within the period covered by the plan. The Commission may approve one or more successive coalition plan periods. The coalition

plan may include strategies that vary among the subareas or jurisdictions of the geographic area covered by the coalition plan.

(i) If a local government chooses to withdraw from a coalition of local governments or fails to implement a coalition plan, the remaining members of a coalition of local governments may prepare and submit a revised coalition plan for approval by the Commission. If the Commission determines that an approved coalition plan no longer provides a viable alternative method of attaining equivalent compliance with federal and State water quality standards, classifications, and management practices, the Commission may suspend or revoke its approval of the coalition plan.

(j) The Commission may approve one or more amendments to a coalition plan proposed by a coalition of local governments through its nonprofit corporation with the approval of the governing board of each local government that is a member of the coalition of local governments that proposed the coalition plan.

(k) With the approval of the Commission, any coalition of local governments with an approved coalition plan may establish and implement a pollutant trading program for specific pollutants between and among point source dischargers and nonpoint pollution sources.

(l) The Commission shall submit an annual progress report on the implementation of this section to the Environmental Review Commission on or before 1 October of each year."

Section 2. The Environmental Management Commission shall submit the first report required by G.S. 143-214.14(l), as enacted by Section 1 of this act, on or before 1 October 1998.

Section 3. Section 1 of this act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1(a). The Environmental Management Commission may adopt temporary rules to implement Section 1 of this act for one year from the date this act becomes effective.

Section 4. Notwithstanding the provisions of G.S. 143-215.84 and G.S. 143-215.94E and except as provided in subsection (d) of Section 1 of Chapter 648 of the 1995 Session Laws (1996 Regular Session), no person shall be required to clean up a discharge or release from a leaking petroleum underground storage tank that has been classified as having a Class CDE impact pursuant to subsection (b) of Section 1 of Chapter 648 of the 1995 Session Laws (1996 Regular Session).

Section 5. The Environmental Management Commission shall adopt the rule required by G.S. 143-215.94V(b) and Section 6 of Chapter 648 of the 1995 Session Laws (1996 Regular Session) as a temporary rule no later than 11 September 1997.

Section 6. This act is effective when it becomes law. Section 4 of this act expires when the temporary rule required by Section 5 of this act becomes effective as provided in G.S. 150B-21.3(a).

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law upon approval of the Governor at 11:03 a.m. on the 11th day of September, 1997.

S.B. 977

CHAPTER 494

AN ACT TO ENACT INTO LAW THE SOUTHERN DAIRY COMPACT, TO DIRECT THE APPOINTMENT OF MEMBERS FROM NORTH CAROLINA TO THE SOUTHERN DAIRY COMPACT COMMISSION, AND TO APPROPRIATE FUNDS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 106 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 68.

"Southern Dairy Compact.

"§ 106-810. Southern Dairy Compact entered into; form of Compact.

The Southern Dairy Compact is enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

ARTICLE I. Statement of Purpose, Findings, and Declaration of Policy

"§ 1. Statement of purpose, findings, and declaration of policy.

The purpose of this compact is to recognize the interstate character of the southern dairy industry and the prerogative of the states under the United States Constitution to form an interstate commission for the southern region. The mission of the Commission is to take such steps as are necessary to assure the continued viability of dairy farming in the South, and to assure consumers of an adequate, local supply of pure and wholesome milk.

The participating states find and declare that the dairy industry is an essential agricultural activity of the South. Dairy farms, and associated suppliers, marketers, processors, and retailers, are an integral component of the region's economy. Their ability to provide a stable, local supply of pure, wholesome milk is a matter of great importance to the health and welfare of the region.

The participating states further find that dairy farms are essential, and they are an integral part of the region's rural communities. The farms preserve land for agricultural purposes and provide needed economic stimuli for rural communities.

By entering into this compact, the participating states affirm that their ability to regulate the price that southern dairy farmers receive for their product is essential to the public interest. Assurance of a fair and equitable price for dairy farmers ensures their ability to provide milk to the market and the vitality of the southern dairy industry, with all the associated benefits.

Recent dramatic price fluctuations, with a pronounced downward trend, threaten the viability and stability of the southern dairy region. Historically, individual state regulatory action had been an effective emergency remedy available to farmers confronting a distressed market. The system of federal orders, implemented by the Agricultural Marketing Agreement Act of 1937, establishes only minimum prices paid to producers for raw milk, without preempting the power of states to regulate milk prices above the minimum levels so established.

In today's regional dairy marketplace, cooperative, rather than individual state action is needed to more effectively address the market disarray. Under our constitutional system, properly authorized states acting cooperatively may exercise more power to regulate interstate commerce than they may assert individually without such authority. For this reason, the participating states invoke their authority to act in common agreement, with the consent of Congress, under the compact clause of the Constitution.

In establishing their constitutional regulatory authority over the region's fluid milk market by this compact, the participating states declare their purpose that this compact neither displace the system of federal orders nor encourage the merging of federal orders. Specific provisions of the compact itself set forth this basic principle.

Designed as a flexible mechanism able to adjust to changes in a regulated marketplace, the compact also contains a contingency provision should the system of federal orders be discontinued. In that event, the interstate commission may regulate the marketplace in lieu of the system of federal orders. This contingent authority does not anticipate such a change, however, and should not be so construed. It is only provided should developments in the market other than establishment of this compact result in discontinuance of the system of federal orders.

ARTICLE II. Definitions and Rules of Construction

"§ 2. Definitions.

For the purposes of this compact, and of any supplemental or concurring legislation enacted pursuant thereto, except as may be otherwise required by the context:

- (1) 'Class I milk' means milk disposed of in fluid form or as a fluid milk product, subject to further definition in accordance with the principles expressed in subsection (b) of Section 3.
- (2) 'Commission' means the Southern Dairy Compact Commission established by this compact.
- (3) 'Commission marketing order' means regulations adopted by the Commission pursuant to Sections 9 and 10 of this compact in place of a terminated federal marketing order or state dairy regulation. Such order may apply throughout the region or in any part or parts thereof as defined in the regulations of the Commission. Such order may establish minimum prices for any or all classes of milk.
- (4) 'Compact' means this interstate compact.
- (5) 'Compact over-order price' means a minimum price required to be paid to producers for Class I milk established by the Commission in regulations adopted pursuant to Sections 9 and 10 of this compact, which is above the price established in federal marketing orders or by state farm price regulation in the regulated area. Such price may apply throughout the region or in any part or parts thereof as defined in the regulations of the Commission.
- (6) 'Milk' means the lacteal secretion of cows and includes all skim, butterfat, or other constituents obtained from separation or any

- other process. The term is used in its broadest sense and may be further defined by the Commission for regulatory purposes.
- (7) 'Partially regulated plant' means a milk plant not located in a regulated area but having Class I distribution within such area. Commission regulations may exempt plants having such distribution or receipts in amounts less than the limits defined therein.
 - (8) 'Participating state' means a state which has become a party to this compact by the enactment of concurring legislation.
 - (9) 'Pool plant' means any milk plant located in a regulated area.
 - (10) 'Region' means the territorial limits of the states which are parties to this compact.
 - (11) 'Regulated area' means any area within the region governed by and defined in regulations establishing a compact over-order price or commission marketing order.
 - (12) 'State dairy regulation' means any state regulation of dairy prices and associated assessments, whether by statute, marketing order, or otherwise.

"§ 3. Rules of construction.

(a) This compact shall not be construed to displace existing federal milk marketing orders or state dairy regulation in the region but to supplement them. In the event some or all federal orders in the region are discontinued, the compact shall be construed to provide the Commission the option to replace them with one or more commission marketing orders pursuant to this compact.

(b) This compact shall be construed liberally in order to achieve the purposes and intent enunciated in Section 1. It is the intent of this compact to establish a basic structure by which the Commission may achieve those purposes through the application, adaptation, and development of the regulatory techniques historically associated with milk marketing and to afford the Commission broad flexibility to devise regulatory mechanisms to achieve the purposes of this compact. In accordance with this intent, the technical terms which are associated with market order regulation and which have acquired commonly understood general meanings are not defined herein but the Commission may further define the terms used in this compact and develop additional concepts and define additional terms as it may find appropriate to achieve its purposes.

ARTICLE III. Commission Established

"§ 4. Commission established.

There is hereby created a commission to administer the compact, composed of delegations from each state in the region. The Commission shall be known as the Southern Dairy Compact Commission. A delegation shall include not less than three nor more than five persons. Each delegation shall include at least one dairy farmer who is engaged in the production of milk at the time of appointment or reappointment, and one consumer representative. Delegation members shall be residents and voters of, and subject to such confirmation process as is provided for in, the appointing state. Delegation members shall serve no more than three consecutive terms with no single term of more than four years, and be

subject to removal for cause. In all other respects, delegation members shall serve in accordance with the laws of the state represented. The compensation, if any, of the members of a state delegation shall be determined and paid by each state, but their expenses shall be paid by the Commission.

"§ 5. Voting requirements.

All actions taken by the Commission, except for the establishment or termination of an over-order price or commission marketing order, and the adoption, amendment, or rescission of the Commission's bylaws, shall be by majority vote of the delegations present. Each state delegation shall be entitled to one vote in the conduct of the Commission's affairs. Establishment or termination of an over-order price or commission marketing order shall require at least a two-thirds vote of the delegations present. The establishment of a regulated area that covers all or part of a participating state shall require also the affirmative vote of that state's delegation. A majority of the delegations from the participating states shall constitute a quorum for the conduct of the Commission's business.

"§ 6. Administration and management.

(a) The Commission shall elect annually from among the members of the participating state delegations a chairperson, a vice-chairperson, and a treasurer. The Commission shall appoint an executive director and fix his or her duties and compensation. The executive director shall serve at the pleasure of the Commission, and, together with the treasurer, shall be bonded in an amount determined by the Commission. The Commission may establish through its bylaws an executive committee composed of one member elected by each delegation.

(b) The Commission shall adopt bylaws for the conduct of its business by a two-thirds vote and shall have the power by the same vote to amend and rescind these bylaws. The Commission shall publish its bylaws in convenient form with the appropriate agency or officer in each of the participating states. The bylaws shall provide for appropriate notice to the delegations of all Commission meetings and hearings and of the business to be transacted at such meetings or hearings. Notice also shall be given to other agencies or officers of participating states as provided by the laws of those states.

(c) The Commission shall file an annual report with the Secretary of Agriculture of the United States, and with each of the participating states by submitting copies to the Governor, both houses of the legislature, and the head of the state department having responsibilities for agriculture.

(d) In addition to the powers and duties elsewhere prescribed in this compact, the Commission may engage in all of the following:

- (1) Sue and be sued in any state or federal court.
- (2) Have a seal and alter the same at pleasure.
- (3) Acquire, hold, and dispose of real and personal property by gift, purchase, lease, license, or other similar manner, for its corporate purposes.
- (4) Borrow money and to issue notes, to provide for the rights of the holders thereof, and to pledge the revenue of the Commission as

security therefor, subject to the provisions of Section 18 of this compact.

- (5) Appoint such officers, agents, and employees as it may deem necessary, prescribe their powers, duties, and qualifications.
- (6) Create and abolish such offices, employments, and positions as it deems necessary for the purposes of the compact and provide for the removal, term, tenure, compensation, fringe benefits, pension, and retirement rights of its officers and employees.
- (7) Retain personal services on a contract basis.

"§ 7. Rule-making power.

In addition to the power to promulgate a compact over-order price or commission marketing orders as provided by this compact, the Commission is further empowered to make and enforce such additional rules and regulations as it deems necessary to implement any provisions of this compact, or to effectuate in any other respect the purposes of this compact.

ARTICLE IV. Powers of the Commission

"§ 8. Powers to promote regulatory uniformity, simplicity, and interstate cooperation.

The Commission may:

- (1) Investigate or provide for investigations or research projects designed to review the existing laws and regulations of the participating states, to consider their administration and costs, to measure their impact on the production and marketing of milk and their effects on the shipment of milk and milk products within the region.
- (2) Study and recommend to the participating states joint or cooperative programs for the administration of the dairy marketing laws and regulations and to prepare estimates of cost savings and benefits of such programs.
- (3) Encourage the harmonious relationships between the various elements in the industry for the solution of their material problems. Conduct symposia or conferences designed to improve industry relations, or a better understanding of problems.
- (4) Prepare and release periodic reports on activities and results of the Commission's efforts to the participating states.
- (5) Review the existing marketing system for milk and milk products and recommend changes in the existing structure for assembly and distribution of milk which may assist, improve, or promote more efficient assembly and distribution of milk.
- (6) Investigate costs and charges for producing, hauling, handling, processing, distributing, selling, and for all other services, performed with respect to milk.
- (7) Examine current economic forces affecting producers, probable trends in production and consumption, the level of dairy farm prices in relation to costs, the financial conditions of dairy farmers, and the need for an emergency order to relieve critical conditions on dairy farms.

"§ 9. Equitable farm prices.

(a) The powers granted in this section and Section 10 shall apply only to the establishment of a compact over-order price, so long as federal milk marketing orders remain in effect in the region. In the event that any or all such orders are terminated, this Article authorizes the Commission to establish one or more commission marketing orders, as herein provided, in the region or parts thereof as defined in the order.

(b) A compact over-order price established pursuant to this section shall apply only to Class I milk. Such compact over-order price shall not exceed one dollar and fifty cents (\$1.50) per gallon at Atlanta, Georgia, however, this compact over-order price shall be adjusted upward or downward at other locations in the region to reflect differences in minimum federal order prices. Beginning in 1990, and using that year as a base, the foregoing one dollar and fifty cents (\$1.50) per gallon maximum shall be adjusted annually by the rate of change in the Consumer Price Index as reported by the Bureau of Labor Statistics of the United States Department of Labor. For purposes of the pooling and equalization of an over-order price, the value of milk used in other use classifications shall be calculated at the appropriate class price established pursuant to the applicable federal order or state dairy regulation and the value of unregulated milk shall be calculated in relation to the nearest prevailing class price in accordance with and subject to such adjustments as the Commission may prescribe in regulations.

(c) A commission marketing order shall apply to all classes and uses of milk.

(d) The Commission may establish a compact over-order price for milk to be paid by pool plants and partially regulated plants. The Commission also may establish a compact over-order price to be paid by all other handlers receiving milk from producers located in a regulated area. This price shall be established either as a compact over-order price or by one or more commission marketing orders. Whenever such a price has been established by either type of regulation, the legal obligation to pay such price shall be determined solely by the terms and purpose of the regulation without regard to the situs of the transfer of title, possession, or any other factors not related to the purposes of the regulation and this compact. Producer-handlers as defined in an applicable federal market order shall not be subject to a compact over-order price. The Commission shall provide for similar treatment of producer-handlers under commission marketing orders.

(e) In determining the price, the Commission shall consider the balance between production and consumption of milk and milk products in the regulated area, the costs of production including, but not limited to, the price of feed, the cost of labor including the reasonable value of the producer's own labor and management, machinery expense and interest expense, the prevailing price for milk outside the regulated area, the purchasing power of the public, and the price necessary to yield a reasonable return to the producer and distributor.

(f) When establishing a compact over-order price, the Commission shall take such other action as is necessary and feasible to help ensure that the over-order price does not cause or compensate producers so as to generate local production of milk in excess of those quantities necessary to assure consumers of an adequate supply for fluid purposes.

(g) The Commission shall whenever possible enter into agreements with state or federal agencies for exchange of information or services for the purpose of reducing regulatory burden and cost of administering the compact. The Commission may reimburse other agencies for the reasonable cost of providing these services.

"§ 10. Optional provisions for pricing order.

Regulations establishing a compact over-order price or a commission marketing order may contain, but shall not be limited to, any of the following:

- (1) Provisions classifying milk in accordance with the form in which or purpose for which it is used, or creating a flat pricing program.
- (2) With respect to a commission marketing order only, provisions establishing or providing a method for establishing separate minimum prices for each use classification prescribed by the Commission, or a single minimum price for milk purchased from producers or associations of producers.
- (3) With respect to an over-order minimum price, provisions establishing or providing a method for establishing such minimum price for Class I milk.
- (4) Provisions for establishing either an over-order price or a commission marketing order may make use of any reasonable method for establishing such price or prices including flat pricing and formula pricing. Provision may also be made for location adjustments, zone differentials, and competitive credits with respect to regulated handlers who market outside the regulated area.
- (5) Provisions for the payment to all producers and associations of producers delivering milk to all handlers of uniform prices for all milk so delivered, irrespective of the uses made of such milk by the individual handler to whom it is delivered, or for the payment of producers delivering milk to the same handler of uniform prices for all milk delivered by them.
 - a. With respect to regulations establishing a compact over-order price, the Commission may establish one equalization pool within the regulated area for the sole purpose of equalizing returns to producers throughout the regulated area.
 - b. With respect to any commission marketing order, as defined in Section 2, subdivision (9), which replaces one or more terminated federal orders or state dairy regulation, the marketing area of now separate state or federal orders shall not be merged without the affirmative consent of each state, voting through its delegation, which is partly or wholly included within any such new marketing area.
- (6) Provisions requiring persons who bring Class I milk into the regulated area to make compensatory payments with respect to all such milk to the extent necessary to equalize the cost of milk purchased by handlers subject to a compact over-order price or commission marketing order. No such provisions shall

- discriminate against milk producers outside the regulated area. The provisions for compensatory payments may require payment of the difference between the Class I price required to be paid for such milk in the state of production by a federal milk marketing order or state dairy regulation and the Class I price established by the compact over-order price or commission marketing order.
- (7) Provisions specially governing the pricing and pooling of milk handled by partially regulated plants.
 - (8) Provisions requiring that the account of any person regulated under the compact over-order price shall be adjusted for any payments made to or received by such persons with respect to a producer settlement fund of any federal or state milk marketing order or other state dairy regulation within the regulated area.
 - (9) Provision requiring the payment by handlers of an assessment to cover the costs of the administration and enforcement of such order pursuant to subsection (a) of Section 18 of Article VII.
 - (10) Provisions for reimbursement to participants of the Women, Infants and Children Special Supplemental Food Program of the United States Child Nutrition Act of 1966.
 - (11) Other provisions and requirements as the Commission may find are necessary or appropriate to effectuate the purposes of this compact and to provide for the payment of fair and equitable minimum prices to producers.

ARTICLE V. Rule-Making Procedure.

"§ 11. Rule-making procedure.

Before promulgation of any regulations establishing a compact over-order price or commission marketing order, including any provision with respect to milk supply under subsection (f) of Section 9, or amendment thereof, as provided in Article IV, the Commission shall conduct an informal rule-making proceeding to provide interested persons with an opportunity to present data and views. Such rule-making proceeding shall be governed by Section 4 of the Federal Administrative Procedure Act, as amended (5 U.S.C. § 553). In addition, the Commission shall, to the extent practicable, publish notice of rule-making proceedings in the official register of each participating state. Before the initial adoption of regulations establishing a compact over-order price or a commission marketing order and thereafter before any amendment with regard to prices or assessments, the Commission shall hold a public hearing. The Commission may commence a rule-making proceeding on its own initiative or may in its sole discretion act upon the petition of any person including individual milk producers, any organization of milk producers or handlers, general farm organizations, consumer or public interest groups, and local, state or federal officials.

"§ 12. Findings and referendum.

(a) In addition to the concise general statement of basis and purpose required by section 4(b) of the Federal Administrative Procedure Act, as amended (5 U.S.C. § 53 (c)), the Commission shall make findings of fact with respect to:

- (1) Whether the public interest will be served by the establishment of minimum milk prices to dairy farmers under Article IV.
- (2) What level of prices will assure that producers receive a price sufficient to cover their costs of production and will elicit an adequate supply of milk for the inhabitants of the regulated area and for manufacturing purposes.
- (3) Whether the major provisions of the order, other than those fixing minimum milk prices, are in the public interest and are reasonably designed to achieve the purposes of the order.
- (4) Whether the terms of the proposed regional order or amendment are approved by producers as provided in Section 13.

"§ 13. Producer referendum.

(a) For the purpose of ascertaining whether the issuance or amendment of regulations establishing a compact over-order price or a commission marketing order, including any provision with respect to milk supply under subsection (f) of Section 9, is approved by producers, the Commission shall conduct a referendum among producers. The referendum shall be held in a timely manner, as determined by regulation of the Commission. The terms and conditions of the proposed order or amendment shall be described by the Commission in the ballot used in the conduct of the referendum, but the nature, content, or extent of such description shall not be a basis for attacking the legality of the order or any action relating thereto.

(b) An order or amendment shall be deemed approved by producers if the Commission determines that it is approved by at least two-thirds of the voting producers who, during a representative period determined by the Commission, have been engaged in the production of milk the price of which would be regulated under the proposed order or amendment.

(c) For purposes of any referendum, the Commission shall consider the approval or disapproval by any cooperative association of producers, qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the Capper-Volstead Act, bona fide engaged in marketing milk, or in rendering services for or advancing the interests of producers of such commodity, as the approval or disapproval of the producers who are members or stockholders in, or under contract with, such cooperative association of producers, except as provided in subdivision (1) of this subsection and subject to the provisions of subdivisions (2) through (5) of this subsection.

- (1) No cooperative that has been formed to act as a common marketing agency for both cooperatives and individual producers shall be qualified to block vote for either.
- (2) Any cooperative that is qualified to block vote shall, before submitting its approval or disapproval in any referendum, give prior written notice to each of its members as to whether and how it intends to cast its vote. The notice shall be given in a timely manner as established, and in the form prescribed, by the Commission.
- (3) Any producer may obtain a ballot from the Commission in order to register approval or disapproval of the proposed order.

- (4) A producer who is a member of a cooperative which has provided notice of its intent to approve or not to approve a proposed order, and who obtains a ballot and with such ballot expresses his or her approval or disapproval of the proposed order, shall notify the Commission as to the name of the cooperative of which he or she is a member, and the Commission shall remove such producer's name from the list certified by such cooperative with its corporate vote.
- (5) In order to ensure that all milk producers are informed regarding a proposed order, the Commission shall notify all milk producers that an order is being considered and that each producer may register his or her approval or disapproval with the Commission either directly or through his or her cooperative.

"§ 14. Termination of over-order price or marketing order.

(a) The Commission shall terminate any regulations establishing an over-order price or commission marketing order issued under this Article whenever it finds that such order or price obstructs or does not tend to effectuate the declared policy of this compact.

(b) The Commission shall terminate any regulations establishing an over-order price or a commission marketing order issued under this Article whenever it finds that such termination is favored by a majority of the producers who, during a representative period determined by the Commission, have been engaged in the production of milk, the price of which is regulated by such order; but such termination shall be effective only if announced on or before such date as may be specified in such marketing agreement or order.

(c) The termination or suspension of any order or provision thereof, shall not be considered an order within the meaning of this Article and shall require no hearing, but shall comply with the requirements for informal rule making prescribed by Section 4 of the Federal Administrative Procedure Act, as amended (5 U.S.C. § 553).

ARTICLE VI. Enforcement

"§ 15. Records, reports, access to premises.

(a) The Commission may by rule and regulation prescribe record keeping and reporting requirements for all regulated persons. For purposes of the administration and enforcement of this compact, the Commission may examine the books and records of any regulated person relating to his or her milk business and for that purpose, the Commission's properly designated officers, employees, or agents shall have full access during normal business hours to the premises and records of all regulated persons.

(b) Information furnished to or acquired by the Commission officers, employees, or its agents pursuant to this section shall be confidential and not subject to disclosure except to the extent that the Commission deems disclosure to be necessary in any administrative or judicial proceeding involving the administration or enforcement of this compact, an over-order price, a compact marketing order, or other regulations of the Commission. The Commission may adopt rules further defining the confidentiality of information pursuant to this section. Nothing in this section shall be deemed to prohibit (i) the issuance of general statements based upon the

reports of a number of handlers, which do not identify the information furnished by any person, or (ii) the publication by direction of the Commission of the name of any person violating any regulation of the Commission, together with a statement of the particular provisions violated by such person.

(c) No officer, employee, or agent of the Commission shall intentionally disclose information, by inference or otherwise, that is made confidential pursuant to this section. Any person violating the provisions of this section shall, upon conviction, be subject to a fine of not more than one thousand dollars (\$1,000) or to imprisonment for not more than one year, or both, and shall be removed from office. The Commission shall refer any allegation of a violation of this section to the appropriate state enforcement authority or United States Attorney.

"§ 16. Subpoena, hearings, and judicial review.

(a) The Commission is hereby authorized and empowered by its members and its properly designated officers to administer oaths and issue subpoenas throughout all signatory states to compel the attendance of witnesses and the giving of testimony and the production of other evidence.

(b) Any handler subject to an order may file a written petition with the Commission stating that any order or any provision of any such order or any obligation imposed in connection therewith is not in accordance with law and praying for a modification thereof or to be exempted therefrom. The handler shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the Commission. After such hearing, the Commission shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law.

(c) The district courts of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, are hereby vested with jurisdiction to review such ruling, provided a complaint for that purpose is filed within 30 days from the date of the entry of the ruling. Service of process in these proceedings may be had upon the Commission by delivering to it a copy of the complaint. If the court determines that the ruling is not in accordance with law, it shall remand such proceedings to the Commission with directions either (i) to make such ruling as the court shall determine to be in accordance with law, or (ii) to take such further proceedings as, in its opinion, the law requires. The pendency of proceedings instituted pursuant to this subdivision shall not impede, hinder, or delay the Commission from obtaining relief pursuant to Section 17. Any proceedings brought pursuant to Section 17, except where brought by way of counterclaim in proceedings instituted pursuant to this section, shall abate whenever a final decree has been rendered in proceedings between the same parties, and covering the same subject matter, instituted pursuant to this section.

"§ 17. Enforcement with respect to handlers.

(a) Any violation by a handler of the provisions of regulation establishing an over-order price or a commission marketing order, or other regulations adopted pursuant to this compact shall:

- (1) Constitute a violation of the laws of each of the signatory states.
Such violation shall render the violator subject to a civil penalty

in an amount as may be prescribed by the laws of each of the participating states, recoverable in any state or federal court of competent jurisdiction. Each day such violation continues shall constitute a separate violation.

- (2) Constitute grounds for the revocation of license or permit to engage in the milk business under the applicable laws of the participating states.

(b) With respect to handlers, the Commission shall enforce the provisions of this compact, regulations establishing an over-order price, a commission marketing order or other regulations adopted hereunder by:

- (1) Commencing an action for legal or equitable relief brought in the name of the Commission in any state or federal court of competent jurisdiction; or
- (2) Referral to the state agency for enforcement by judicial or administrative remedy with the agreement of the appropriate state agency of a participating state.

(c) With respect to handlers, the Commission may bring an action for injunction to enforce the provisions of this compact or the order or regulations adopted thereunder without being compelled to allege or prove that an adequate remedy of law does not exist.

ARTICLE VII. Finance

"§ 18. Finance of start-up and regular costs.

(a) To provide for its start-up costs, the Commission may borrow money pursuant to its general power under Section 6, subdivision (d), paragraph 4. In order to finance the cost of administration and enforcement of this compact, including payback of start-up costs, the Commission may collect an assessment from each handler who purchases milk from producers within the region. If imposed, this assessment shall be collected on a monthly basis for up to one year from the date the Commission convenes, in an amount not to exceed \$.015 per hundred weight of milk purchased from producers during the period of the assessment. The initial assessment may apply to the projected purchases of handlers for the two-month period following the date the Commission convenes. In addition, if regulations establishing an over-order price or a compact marketing order are adopted, they may include an assessment for the specific purpose of their administration. These regulations shall provide for establishment of a reserve for the Commission's ongoing operating expenses.

(b) The Commission shall not pledge the credit of any participating state or of the United States. Notes issued by the Commission and all other financial obligations incurred by it, shall be its sole responsibility and no participating state or the United States shall be liable therefor.

"§ 19. Audit and accounts.

(a) The Commission shall keep accurate accounts of all receipts and disbursements, which shall be subject to the audit and accounting procedures established under its rules. In addition, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a qualified public accountant and the report of the audit shall be included in and become part of the annual report of the Commission.

(b) The accounts of the Commission shall be open at any reasonable time for inspection by duly constituted officers of the participating states and by any persons authorized by the Commission.

(c) Nothing contained in this Article shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any participating state or of the United States.

ARTICLE VIII. Entry into Force; Additional Members and Withdrawal

"§ 20. Entry into force; additional members.

The compact shall enter into force effective when enacted into law by any three states of the group of states composed of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia and when the consent of Congress has been obtained.

"§ 21. Withdrawal from compact.

Any participating state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after notice in writing of the withdrawal is given to the Commission and the governors of all the participating states. No withdrawal shall affect any liability already incurred by or chargeable to a participating state prior to the time of such withdrawal.

"§ 22. Severability.

If any part or provision of this compact is adjudged invalid by any court, such judgment shall be confined in its operation to the part or provision directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this compact. In the event Congress consents to this compact subject to conditions, said conditions shall not impair the validity of this compact when said conditions are accepted by three or more compacting states. A compact state may accept the conditions of Congress by implementation of this compact.

"§ 106-811. Appointment of members to the Southern Dairy Compact Commission.

(a) The delegation from the State of North Carolina to the Southern Dairy Compact Commission, as established in Article IV of the Compact, shall be composed of five members appointed as follows:

- (1) One member representing consumers of milk, appointed by the Governor.
- (2) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives.
- (3) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate.
- (4) Two members appointed by the Commissioner of Agriculture, one of whom shall be a dairy farmer engaged in the production of milk at the time of appointment or reappointment.

(b) Members must be registered to vote in the State.

(c) Members shall serve a term of four years and may be reappointed, but no member shall serve more than three consecutive terms. Members shall serve until their successors are duly appointed. Any appointment to fill an unexpired term shall be for the balance of the unexpired term and shall

be made by the appropriate appointing authority. A member may be removed by the appointing authority, in accordance with G.S. 143B-13. The Commissioner of Agriculture shall designate one member of the delegation to serve as chair, at the pleasure of the Commissioner.

(d) Members of the delegation shall receive per diem and necessary travel and subsistence expenses in accordance with G.S. 138-5.

(e) A majority of the delegation shall constitute a quorum for the transaction of business.

(f) All clerical and other services required by the delegation shall be provided by the Commissioner of Agriculture."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law upon approval of the Governor at 11:30 a.m. on the 11th day of September, 1997.

S.B. 815

CHAPTER 495

**AN ACT TO APPOINT PERSONS TO VARIOUS PUBLIC OFFICES
UPON THE RECOMMENDATION OF THE PRESIDENT PRO
TEMPORE OF THE SENATE AND THE SPEAKER OF THE HOUSE
OF REPRESENTATIVES AND TO MAKE RELATED STATUTORY
CHANGES CONCERNING THEIR APPOINTMENTS.**

Whereas, G.S 120-121 authorizes the General Assembly to make certain appointments to public offices upon the recommendation of the President Pro Tempore of the Senate and the Speaker of the House of Representatives;

Whereas, the President Pro Tempore of the Senate and the Speaker of the House of Representatives have made recommendations; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Charles Hayes of Guilford County is appointed to the North Carolina Global TransPark Authority for a term to expire on June 30, 1999. Frank Holding of Mecklenburg County and Howard Chapin of Beaufort County are appointed to the North Carolina Global TransPark Authority for terms expiring on June 30, 2001.

Section 2. Russell Mohn Hull, Jr., of Pasquotank County, Eugene Price of Wayne County, and John Edward Pechmann of Cumberland County, are appointed to the North Carolina Wildlife Resources Commission for terms expiring on April 24, 1999.

Section 3. Anita C. McCorkle of Mecklenburg County and Rebekah Beerbower of Catawba County are appointed to the Child Day-Care Commission for terms expiring on June 30, 1999.

Section 4. William F. Forsyth of Cherokee County, Sam Neill of Henderson County, and David Reeves of Henderson County are appointed to the Western North Carolina Regional Economic Development Commission for terms expiring on June 30, 2001.

Section 5. Thomas J. Burgin, Jr., of Lincoln County and William A. Allen of Pasquotank County are appointed to the Private Protective Services Board for terms expiring on June 30, 1999.

Section 6. Dr. Patricia A. Chamings of Guilford County is appointed to the North Carolina Center for Nursing for a term expiring June 30, 1999. Barbara Morris of Cumberland County and Henson Barnes of Bladen County are appointed to the North Carolina Center for Nursing for terms expiring on June 30, 2000.

Section 7. Thomas Mehder of Mecklenburg County, Douglas E. Howey of Wake County, Anne Coan of Wake County, Bill Weatherspoon of Wake County, and Russ Stephenson of Wake County are appointed to the North Carolina Petroleum Underground Storage Tank Funds Council for terms expiring on June 30, 1999.

Section 8. Margaret Arbuckle of Guilford County and Mayor Jerry Campbell of Lincoln County are appointed to the Watershed Protection Advisory Council for terms expiring on June 30, 1999.

Section 9. Wayne Louis Lofton of New-Hanover County and Anthony M. Copeland of Wake County are appointed to the North Carolina Agency for Public Telecommunications for terms expiring on June 30, 1999.

Section 10. John Phillips of Wake County is appointed to the North Carolina Board for Licensing of Soil Scientists for a term to expire on June 30, 1999.

Section 11. Paul Brooks of Robeson County is appointed to the North Carolina State Commission of Indian Affairs for a term to expire on June 30, 1999.

Section 12. John H. Cilley, IV, of Catawba County is appointed to the Board of Trustees Teachers' and State Employees' Retirement System for a term to expire on June 30, 1999.

Section 13. The Honorable Terry Sanford of Durham County and Linda Godwin Murphy of Duplin County are appointed to the Board of Trustees of the North Carolina Museum of Art for terms expiring on June 30, 1999.

Section 14. Rick Lee of Haywood County is appointed to the North Carolina Code Officials Qualification Board for a term to expire on June 30, 2001.

Section 15. Lisa Eberhart of Wake County and Sheila Garner of Carteret County are appointed to the North Carolina Board of Dietetics/Nutrition for terms to expire on June 30, 2000.

Section 16. Robert Epting of Orange County and Jeffrey V. Morse of Burke County are appointed to the Environmental Management Commission for terms expiring on June 30, 1999.

Section 17. Russell Howard Langley of Dare County is appointed to the North Carolina Seafood Industrial Park Authority for a term to expire on June 30, 1999.

Section 18. Richard Lee Frye of Alamance County is appointed to the North Carolina Sheriffs' Education and Training Standards Commission for a term to expire on June 30, 2000.

Section 19. Stewart Bryan Coleman of Buncombe County is appointed to the North Carolina State Ports Authority for a term to expire on June 30, 1999.

Section 20. Ann McArthur of Dare County and Carol Newman of Mecklenburg County are appointed to the North Carolina Center for the Advancement of Teaching Board of Trustees for terms expiring on June 30, 2001.

Section 21. Jimmy Hughes of Pitt County is appointed to the North Carolina Home Inspector Licensure Board for a term to expire on July 1, 1998.

Section 22. Kathy Weeks of Harnett County and Virginia Adams of New Hanover County are appointed to the North Carolina Nursing Scholars Commission for terms expiring on June 30, 2001.

Section 23. Kenneth Robinette of Richmond County, Jane Smith of Robeson County, and William Phipps of Columbus County are appointed to the Southeastern North Carolina Regional Economic Development Commission for terms expiring on June 30, 2001.

Section 24. R. B. Heater of Wake County and Ingram Walters of Union County are appointed to the North Carolina Low-Level Radioactive Waste Management Authority for terms expiring on June 30, 2001.

Section 25. Dr. Leroy Walker of Durham County is appointed to the North Carolina Teaching Fellows Commission for a term to expire on June 30, 2001.

Section 26. Jeffrey A. Nelson of Martin County is appointed to the Local Government Commission for a term to expire on June 30, 2001.

Section 27. Terry Waterfield of Pasquotank County is appointed to the North Carolina Criminal Justice Education and Training Standards Commission for a term to expire on June 30, 1999.

Section 28. William Earl Antone, Sr., of Robeson County and Walter Clark of Lincoln County are appointed to the North Carolina Housing Finance Agency for terms expiring on June 30, 1999.

Section 29. Randy Gregory of Cumberland County is appointed to the North Carolina School of Science and Mathematics Board of Trustees for a term that expires on June 30, 2001.

Section 30. Clay Ferebee of Camden County and Reef Ivey of Wake County are appointed to the Centennial Authority for terms expiring on June 30, 2001.

Section 31. Mary Lilley of Martin County is appointed to the Northeastern North Carolina Regional Economic Development Commission for a term that expires on June 30, 1999. Ray Hollowell of Dare County is appointed to the Northeastern North Carolina Regional Economic Development Commission for a term that expires on June 30, 2001. Bob Spivey of Bertie County (county commissioner) is appointed to the Northeastern North Carolina Regional Economic Development Commission for a term that expires on June 30, 2001. Charlie Shaw of Chowan County is appointed to the Northeastern North Carolina Regional Economic Development Commission for a term expiring June 30, 1999, in accordance with G.S. 158-8.2(b)(2). Ernie Bowden of Currituck County is appointed to

the Northeastern North Carolina Regional Economic Development Commission for a term expiring June 30, 2001.

Section 32. Hank Debnam of Cumberland County is appointed to the North Carolina State Board of Therapeutic Recreation Certification for a term that expires on June 30, 2001.

Section 33. Jo Anne Jeffries of Hertford County (at large), Richard Clark of Buncombe County, Jim Scarborough of Wake County, Nancy McKeel of Buncombe County, Bobby Bollinger of Mecklenburg County, Emily Moore of Lenoir County (at large), Donald Hines of Mecklenburg County (representative of persons with mental illness) are appointed to the Governor's Advocacy Council for Persons with Disabilities for terms expiring on June 30, 1999.

Section 34. Christie Knittel Mabry of Wake County and Althea Calloway of Mecklenburg County are appointed to the Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan for terms expiring on June 30, 1999.

Section 35. Jim Funderburke of Gaston County and David Ray Twiddy of Chowan County are appointed to the Rules Review Commission for terms expiring on June 30, 1999.

Section 36. Drew King, Sr., of Durham County is appointed to the Board of Trustees of the North Carolina Public Employee Deferred Compensation Plan for a term that expires on June 30, 1999.

Section 37. Beverly McCracken of Guilford County is appointed to the Board of Trustees of the University of North Carolina Center for Public Television for a term that expires on June 30, 1999.

Section 38. Charles E. Truelove, Jr., of Wake County is appointed to the State Building Commission for a term that expires June 30, 2000.

Section 39. Martha Smith Ragsdale of Lee County is appointed to the State Health Plan Purchasing Alliance Board for a term that expires on July 1, 2001.

Section 40. Dr. Larry W. Watson of Wake County is appointed to the North Carolina Board of Science and Technology for a term that expires on June 30, 1999.

Section 40.1. Henry E. Faircloth of Sampson County is appointed to the North Carolina Appraisal Board for a term that expires June 30, 1999.

Section 40.2. Rick Proctor of Davidson County and Florence C. Moses of Wake County are appointed to the North Carolina Board of Athletic Trainer Examiners for terms to expire July 31, 2000. Dr. Donald D'Allesandro of Mecklenburg County is appointed to the North Carolina Board of Athletic Trainer Examiners for a term to expire July 31, 1998.

Section 41. Roger Hill of Henderson County, Michael Geouge of Buncombe County, and Harold Stallcup of Rutherford County are appointed to the Western North Carolina Regional Economic Development Commission for terms expiring June 30, 2001.

Section 42. Louis Pate of Wayne County is appointed to the North Carolina Global TransPark Authority Board of Directors for a term expiring June 30, 2001.

Section 43. Phil Matthews of Wake County is appointed to the Alarm Systems Licensing Board for a term expiring June 30, 2000.

Section 44. Borden Hanes of Forsyth County and Emily Meymandi of Wake County are appointed to the North Carolina Museum of Art Board of Trustees for terms expiring June 30, 1999.

Section 45. Arthur Smith of Mecklenburg County (voting) and Dr. Noel McDevitt of Moore County (nonvoting) are appointed to the North Carolina State Boxing Commission for terms expiring December 31, 2000.

Section 46. Danny Gray of Dare County is appointed to the North Carolina Bridge Authority for a term expiring June 30, 2001.

Section 47. Melinda Spencer of Guilford County and Jerri Howell of Robeson County are appointed to the Child Day-Care Commission for terms expiring June 30, 1999.

Section 48. Brent Barringer of Wake County and Temple Sloan of Wake County are appointed to the Centennial Authority for terms expiring June 30, 2001.

Section 49. Dr. Bob Stroud of Randolph County is appointed to the State Board of Chiropractic Examiners for a term expiring June 30, 1999.

Section 50. Jeannie Blakenship of Randolph County is appointed to the State Board of Cosmetic Arts Examiners for a term expiring June 30, 2000.

Section 51. Renee Kumor of Henderson County is appointed to the Criminal Justice Information Network Governing Board for a term expiring June 30, 2001.

Section 52. Bill Anderson of Wilkes County is appointed to the North Carolina Criminal Justice Education and Training Standards Commission for a term expiring June 30, 1999.

Section 53. Mary Howard Sutton of Lenoir County (at-large), Pat Clapp of Guilford County (representative for mental retardation), Sharon Plain of Onslow County (representative for physical disability), William Morris of Wake County (at-large), Laurie Collins of Forsyth County (at-large), James Wells of Guilford County (representative for developmental disability), and Max Krebs of Moore County (representative for mental illness) are appointed to the Governor's Advocacy Council for Persons with Disabilities for terms expiring June 30, 1999.

Section 54. Douglas Boykin of New Hanover County and Mark C. Surles of Mecklenburg County are appointed to the Environmental Management Commission for terms expiring June 30, 1999.

Section 55. Linwood Parker of Johnston County (owner/manager of alliance member) and Barbara Dickens of Halifax County (employee enrollee) are appointed to the State Health Plan Purchasing Alliance Board for terms expiring June 30, 2001.

Section 56. James Oglesby of Buncombe County (at-large), John Georgius, Jr. of Forsyth County (mortgage servicing institution), Don Barnes of Wayne County (at-large), and Harris Blake of Moore County (licensed real estate broker) are appointed to the North Carolina Housing Finance Agency Board of Directors for terms expiring June 30, 1999.

Section 57. Bob Doepke of Guilford County (insurance representative) and Don Fuquay of Wake County (finance representative) are appointed to the North Carolina Manufactured Housing Board for terms commencing October 1, 1997, expiring September 30, 2000.

Section 58. Scott Dedmon of Buncombe County (nonprofit housing development corporation), Brian Coyle of Wake County (real estate lending), E. G. Fowler of Watauga County (at-large), and Janet Pueschel of Wake County (at-large) are appointed to the North Carolina Housing Partnership for terms expiring June 30, 2000.

Section 59. Sandra Trivett of Buncombe County is appointed to the Local Government Commission for a term expiring June 30, 2001.

Section 60. Herb Council of Wake County (public member non-State employee) and C. V. Parks of Randolph County (retired State employee) are appointed to the Teachers' and State Employees' Comprehensive Major Medical Plan Board of Trustees for terms expiring June 30, 1999.

Section 61. Theresa Nunn of Forsyth County and Laura Thomas of Mecklenburg County are appointed to the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services for terms expiring June 30, 1999.

Section 62. John Schrote of Currituck County (at-large), Philip McMullan, Jr. of Perquimans County (economic developer), and Bill Lehmann of Perquimans County (at-large) are appointed to the Northeastern North Carolina Regional Economic Development Commission for terms expiring June 30, 2001.

Section 62.1. Gene Minton of Halifax County is appointed to the Northeastern North Carolina Regional Economic Development Commission for a term expiring June 30, 1999.

Section 63. Sherry Thomas of Wake County is appointed to the North Carolina Center for Nursing Board of Directors for a term expiring June 30, 2000.

Section 64. Frances Tutterow of Davie County and Deana Burrow of Randolph County are appointed to the North Carolina Nursing Scholars Commission for terms expiring June 30, 2001.

Section 65. Steve Williams of Forsyth County (convenience store owner/operator), David Clary of Cleveland County (groundwater contamination remediation experience), Richard Catlin of New Hanover County (noncommercial tank owner), George Luckadoo (environmental slot) of Rutherford County, and Lloyd Williams, Jr. of Cleveland County (motor fuel service station dealer) are appointed to the North Carolina Petroleum Underground Storage Tank Funds Council for terms expiring June 30, 1999.

Section 66. Estell Lee of New Hanover County is appointed to the North Carolina State Ports Authority for a term expiring June 30, 1999.

Section 67. Tim McIntyre of Forsyth County is appointed to the Private Protective Services Board for a term expiring June 30, 2000.

Section 68. John Tyson of Cumberland County is appointed to the Property Tax Commission for a term expiring June 30, 1999.

Section 69. Edward Goode of Mecklenburg County is appointed to the Teachers' and State Employees' Retirement System Board of Trustees for a term expiring June 30, 1999.

Section 70. Mark Garside of Mecklenburg County, Steve Rader of Beaufort County, and George Robinson of Caldwell County are appointed to the Rules Review Commission for terms expiring June 30, 1999.

Section 71. Michael Egues of Mecklenburg County and Eddie Browning of Washington County are appointed to the North Carolina School of Science and Mathematics Board of Trustees for terms expiring June 30, 1999.

Section 72. Robert Annechiarico of Forsyth County is appointed to the North Carolina Board of Science and Technology for a term expiring June 30, 1999.

Section 73. Litchard Hurley of Randolph County is appointed to the North Carolina Sheriffs' Education and Training Standards Commission for a term expiring August 31, 1999.

Section 74. David Turpin of Wake County is appointed to the North Carolina Substance Abuse Professionals Certification Board for a term expiring June 30, 2000.

Section 75. Gayle Mitchell of Iredell County (grades 6-8), Bea Oettinger of Onslow County (grades K-2), Judy Corso of Moore County (grades 3-5), and Claudia Hadley of Nash County (grades 9-12) are appointed to the North Carolina Teacher Academy Board of Trustees for terms expiring June 30, 2001.

Section 76. James Batten of Buncombe County is appointed to the North Carolina Teaching Fellows Commission for a term expiring June 30, 2001.

Section 77. Cherie Loflin of Davidson County and Jerry Tillman of Randolph County are appointed to the North Carolina Center for the Advancement of Teaching Board of Trustees for terms expiring June 30, 2001.

Section 78. Marilyn Nason of Buncombe County and D. K. McLaughlin of Guilford County are appointed to the North Carolina Agency for Public Telecommunications for terms expiring June 30, 1999.

Section 79. Chip Shelton of Mecklenburg County and Jack Poole of Lenoir County are appointed to the North Carolina Board of Transportation for terms expiring June 30, 1999.

Section 80. Joan Danieleley of Forsyth County is appointed to the Board of Trustees of the UNC Center for Public Television for a term expiring June 30, 1999.

Section 81. John Hairr of Harnett County is appointed to the North Carolina Low-Level Radioactive Waste Management Authority for a term expiring June 30, 2001.

Section 82. Doug Story of Pitt County is appointed to the North Carolina Low-Level Radioactive Waste Management Authority to fill the remainder of the unexpired term of Dr. Constance Walker (expires June 30, 1999).

Section 83. James Reddish of Union County is appointed to the North Carolina Low-Level Radioactive Waste Management Authority for a term expiring June 30, 2000.

Section 84. John Coley of Wake County and Joe Long of Davie County are appointed to the North Carolina Wildlife Resources Commission for terms expiring April 24, 1999.

Section 84.1. Deborah Rosenquist of Forsyth County is appointed to the Board of Dietetics and Nutrition for a term expiring June 30, 2000.

STATE BUILDING COMMISSION

Section 85. G.S. 143-135.25(c) reads as rewritten:

"(c) The Commission shall consist of nine members qualified and appointed as follows:

- (1) A licensed architect whose primary practice is or was in the design of buildings, chosen from among not more than three persons nominated by the North Carolina Chapter of the American Institute of Architects, appointed by the Governor.
- (2) A registered engineer whose primary practice is or was in the design of engineering systems for buildings, chosen from among not more than three persons nominated by the Consulting Engineers Council and the Professional Engineers of North Carolina, appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121.
- (3) A licensed building contractor whose primary business is or was in the construction of buildings, or an employee of a company holding a general contractor's license, chosen from among not more than three persons nominated by the Carolinas AGC (Associated General Contractors), appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121.
- (4) A licensed electrical contractor whose primary business is or was in the installation of electrical systems for buildings, chosen from among not more than three persons nominated by the North Carolina Association of Electrical Contractors, and the Carolinas Electrical Contractors' Association, appointed by the Governor.
- (5) A public member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121.
- (6) A licensed mechanical contractor whose primary business is or was in the installation of mechanical systems for buildings, chosen from among not more than three persons nominated by the North Carolina Association of Plumbing, Heating, Cooling Contractors, appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121.
- (7) An employee of the university system currently involved in the capital facilities development process, chosen from among not more than three persons nominated by the Board of Governors of The University of North Carolina, appointed by the Governor.
- (8) A public member who is knowledgeable in the building construction or building maintenance area, appointed by the

General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121.

- (9) ~~A manager of physical plant operations whose responsibilities are or were in the operations and maintenance of physical facilities, chosen from among not more than three persons nominated by the North Carolina Association of Physical Plant Administrators, A representative of local government, chosen from among not more than two persons nominated by the North Carolina Association of County Commissioners and two persons nominated by the North Carolina League of Municipalities, appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121.~~

The members shall be appointed for staggered three-year terms: The initial appointments to the Commission shall be made within 15 days of the effective date of this act [April 14, 1987]. The initial terms of members appointed pursuant to subdivisions (1), (2), and (3) shall expire June 30, 1990; the initial terms of members appointed pursuant to (4), (5), and (6) shall expire June 30, 1989; and the initial terms of members appointed pursuant to (7), (8), and (9) shall expire June 30, 1988. Members may serve no more than six consecutive years. In making new appointments or filling vacancies, the Governor shall ensure that minorities and women are represented on the Commission.

Vacancies in appointments made by the Governor shall be filled by the Governor for the remainder of the unexpired terms. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122. Persons appointed to fill vacancies shall qualify in the same manner as persons appointed for full terms.

The chairman of the Commission shall be elected by the Commission. The Secretary of State shall serve as chairman until a chairman is elected."

ECONOMIC DEVELOPMENT COMMISSIONS

Section 86. Article 2 of Chapter 158 of the General Statutes is amended by adding a new section to read:

"§ 158-8.4. *Removal of commission members.*

A commission created under G.S. 158-8.1, 158-8.2, or 158-8.3 may, by majority vote, remove a member of the commission if that member does not attend at least eighty percent (80%) of the regularly scheduled meetings of the commission during any full year of service of that member on the board, except that absences excused by the commission due to serious medical or family circumstances shall not be considered. If the commission votes to remove a member under this section, the vacancy will be filled in the same manner as the original appointment."

Section 87. (a) G.S. 158-8.2(b) reads as rewritten:

"(b) The Commission shall consist of ~~17~~ 18 ~~members appointed~~ appointed members and two ex officio members, as follows:

- (1) ~~Five~~ Six members shall be appointed by the Governor, including one developer of northeastern North Carolina, one banker, one county commissioner from Camden, Currituck, Pasquotank, or Perquimans Counties, or from the county or counties assigned to the Commission by the Department of Commerce as authorized by

law, and one county commissioner from Beaufort, Bertie, Chowan, or Martin Counties, or from the county or counties assigned to the Commission by the Department of Commerce as authorized by law; law.

- (2) Five Six members shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121, including one developer of northeastern North Carolina, one banker, and one county commissioner from Dare, Hyde, Tyrrell, or Washington ~~Counties;~~ Counties.
- (3) Five Six members shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121, including one developer of northeastern North Carolina, one banker, and one county commissioner from Halifax, Hertford, Gates, or Northampton ~~Counties;~~ Counties.
- (4) The Secretary of ~~Commerce or a designee; and Commerce, or a designee.~~
- (5) The Secretary of ~~Environment, Health, and Natural Cultural Resources, or a designee.~~

Any person appointed to the Commission in a categorical appointment as a county commissioner may hold such office in addition to the offices permitted by G.S. 128-1.1. The appointing authorities are encouraged to discuss and coordinate their appointments in an effort to ensure as many counties served by the Commission are represented among the membership of the Commission."

(b) The additional appointments made under subsection (a) of this section shall be for initial terms expiring June 30, 1999.

BOARD OF TRANSPORTATION

Section 88. (a) G.S. 143B-350(d) reads as rewritten:

"(d) The Board of Transportation shall have ~~two~~ four members appointed by the General Assembly. ~~One Two~~ of these members shall be appointed upon the recommendation of the Speaker of the House of Representatives, and ~~one two~~ shall be appointed upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121. The initial members appointed by the General Assembly shall serve for terms expiring June 30, 1983. Thereafter, their successors shall serve for two-year terms beginning July 1 of odd-numbered years. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122."

(b) The additional two members appointed by the General Assembly under this section shall serve for terms expiring June 30, 1999.

(c) Michael Mills of Columbus County is appointed to the Board of Transportation for a term expiring June 30, 1999.

TRAVEL AND TOURISM BOARD

Section 89. (a) G.S. 143B-434.1(c) reads as rewritten:

"(c) The Board shall consist of ~~25~~ 27 members as follows:

- (1) The Secretary of Commerce, who shall not be a voting member.
- (2) The Director of the Division of Travel and Tourism, who shall not be a voting member.

- (3) Two members designated by the Board of Directors of the North Carolina Hotel and Motel Association.
 - (4) Two members designated by the Board of Directors of the North Carolina Restaurant Association.
 - (5) Three Directors of Convention and Visitor Bureaus designated by the Board of Directors of the North Carolina Association of Convention and Visitor Bureaus.
 - (6) The Chairperson of the Travel and Tourism Coalition.
 - (7) The President of the Travel Council of North Carolina.
 - (8) A member designated by the Board of Directors of the Travel Council of North Carolina.
 - (9) The President of North Carolina Citizens for Business and Industry.
 - (10) One member designated by the North Carolina Petroleum Marketers Association.
 - (11) One person associated with tourism attractions in North Carolina, appointed by ~~the General Assembly, upon recommendation of~~ the Speaker of the House of Representatives. One person who is not a member of the General Assembly, appointed by the Speaker of the House of Representatives.
 - (12) One person associated with the tourism-related transportation industry, appointed by ~~the General Assembly upon recommendation of~~ the President Pro Tempore of the Senate. One person who is not a member of the General Assembly, appointed by the President Pro Tempore of the Senate.
 - (13) Four public members each interested in matters relating to travel and tourism, two appointed by the Governor (one from a rural area and one from an urban area), one appointed by ~~the General Assembly upon recommendation of~~ the Speaker of the House, and one appointed by ~~the General Assembly upon recommendation of~~ the President Pro Tempore of the Senate.
 - (14) One member associated with the major cultural resources and activities of the State in North Carolina, appointed by the Governor.
 - (15) Two members of the House of Representatives, appointed by ~~the General Assembly upon recommendation of~~ the Speaker of the House of Representatives.
 - (16) Two members of the Senate, appointed by ~~the General Assembly upon recommendation of~~ the President Pro Tempore of the Senate."
- (b) The two additional appointments authorized by this section are for terms expiring December 31, 1998.

RULES REVIEW COMMISSION

Section 90. (a) G.S. 143B-30.1(a) reads as rewritten:

"(a) The Rules Review Commission is created. The Commission shall consist of eight 10 members to be appointed by the General Assembly, four five upon the recommendation of the President Pro Tempore of the Senate, and four five upon the recommendation of the Speaker of the House of Representatives. These appointments shall be made in accordance with G.S.

120-121, and vacancies in these appointments shall be filled in accordance with G.S. 120-122. Except as provided in subsection (b) of this section, all appointees shall serve two-year terms."

(b) G.S. 143B-30.1(c) reads as rewritten:

"(c) Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, ineligibility, death, or disability of any member shall be for the balance of the unexpired term. The chairman shall be elected by the Commission, and he shall designate the times and places at which the Commission shall meet. The Commission shall meet at least once a month. A quorum of the Commission shall consist of five six members of the Commission. The Commission is an independent agency under Article III, Section 11 of the Constitution."

(c) Initial appointments authorized by this section are for terms expiring June 30, 1999.

JOINT LEGISLATIVE EDUCATION OVERSIGHT COMMITTEE

Section 91. (a) G.S. 120-70.80 reads as rewritten:

"§ 120-70.80. *Creation and membership of Joint Legislative Education Committee.*

The Joint Legislative Education Committee is established. The Committee consists of ~~16~~ 18 members as follows:

- (1) ~~Eight~~ Nine members of the Senate appointed by the President Pro Tempore of the Senate, at least two of whom are members of the minority party; and
- (2) ~~Eight~~ Nine members of the House of Representatives appointed by the Speaker of the House of Representatives, at least three of whom are members of the minority party.

Terms on the Committee are for two years and begin on the convening of the General Assembly in each odd-numbered year, except the terms of the initial members, which begin on appointment and end on the day of the convening of the 1991 General Assembly. Members may complete a term of service on the Committee even if they do not seek reelection or are not reelected to the General Assembly, but resignation or removal from service in the General Assembly constitutes resignation or removal from service on the Committee.

A member continues to serve until his successor is appointed. A vacancy shall be filled within 30 days by the officer who made the original appointment."

(b) G.S. 120-70.82(b) reads as rewritten:

"(b) A quorum of the Committee is ~~nine~~ 10 members. No action may be taken except by a majority vote at a meeting at which a quorum is present. While in the discharge of its official duties, the Committee has the powers of a joint committee under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4."

(c) The additional appointments authorized by this section are for terms expiring on convening of the 1999 General Assembly.

JOINT LEGISLATIVE COMMISSION ON GOVERNMENTAL OPERATIONS

Section 92. G.S. 120-74 reads as rewritten:

"§ 120-74. *Appointment of members; terms of office.*

The Commission shall consist of ~~26~~ 30 members. The President pro tempore of the Senate, the Speaker pro tempore of the House, and the Majority Leader of the Senate and the Speaker of the House shall serve as ex officio members of the Commission. The Speaker of the House of Representatives shall appoint ~~eleven~~ 13 members from the House. The President pro tempore of the Senate shall appoint ~~eleven~~ 13 members from the Senate. Vacancies created by resignation or otherwise shall be filled by the original appointing authority. Members shall serve two-year terms beginning and ending on January 15 of the odd-numbered years, except that initial appointments shall begin on July 1, 1975. Members shall not be disqualified from completing a term of service on the Commission because they fail to run or are defeated for reelection. Resignation or removal from the General Assembly shall constitute resignation or removal from membership on the Commission. The terms of the initial members of the Commission shall expire January 15, 1977."

Section 93. Unless otherwise specified, all appointments made by this act are for terms to begin when this act becomes law.

Section 94. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law upon approval of the Governor at 4:25 p.m. on the 11th day of September, 1997.

H.B. 211

CHAPTER 496

AN ACT TO AMEND VARIOUS ENVIRONMENTAL LAWS TO: (1) PROVIDE FOR CONTINUING EDUCATION REQUIREMENTS FOR, AND THE EXPIRATION AND RENEWAL OF, CERTIFICATES ISSUED BY THE WATER POLLUTION CONTROL SYSTEM OPERATORS CERTIFICATION COMMISSION; (2) INCLUDE CONSIDERATION OF THE COMPLIANCE HISTORY IN OTHER STATES OF AN APPLICANT FOR A PERMIT UNDER THE COASTAL AREA MANAGEMENT ACT; (3) CLARIFY THE DISTINCTION BETWEEN A PUBLIC HEARING AND A PUBLIC MEETING IN CONNECTION WITH AN APPLICATION FOR A WATER QUALITY PERMIT; (4) ALLOW THE ENVIRONMENTAL MANAGEMENT COMMISSION TO DELEGATE ITS POWERS BY RESOLUTION RATHER THAN BY RULE; (5) CLARIFY THE ASSESSMENT OF CIVIL PENALTIES FOR CONTINUING VIOLATIONS OF AIR QUALITY STANDARDS; (6) REESTABLISH A SCHEDULE OF SIX-YEAR STAGGERED TERMS FOR THE MINING COMMISSION; (7) REESTABLISH A SCHEDULE OF TWO-YEAR STAGGERED TERMS FOR THE NORTH CAROLINA PARKS AND RECREATION AUTHORITY; AND (8) MAKE CLARIFYING, CONFORMING, AND TECHNICAL CHANGES TO VARIOUS LAWS RELATING TO ENVIRONMENT, HEALTH, AND NATURAL RESOURCES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Part 1 of Article 3 of Chapter 90A is amended by adding a new section to read:

"§ 90A-46.1. Expiration and renewal of certificates; continuing education requirements.

A certificate issued under this Part expires on 31 December of the year in which it is issued or renewed. The Commission may establish minimum continuing education requirements that an applicant must meet to renew a certificate. The Commission shall renew a certificate if the applicant meets the continuing education requirement and pays the required renewal fee, any renewal fee in arrears, and any late application penalty."

Section 2. G.S. 113A-120(b1), as amended by Section 2 of S.L. 1997-337, reads as rewritten:

"(b1) In addition to those factors set out in subsection (a) of this section or of G.S. 113A-120.2, and notwithstanding the provisions of subsection (b) of this section, the responsible official or body may deny an application for a permit upon finding that an applicant, or any parent or subsidiary corporation if the applicant is a corporation:

- (1) Is conducting or has conducted any activity causing significant environmental damage for which a major development permit is required under this Article without having previously obtained such permit or has received a notice of violation with respect to any activity governed by this Article and has not complied with the notice within the time specified in the notice;
- (2) Has failed to pay a civil penalty assessed pursuant to this Article, a local ordinance adopted pursuant to this Article, or Article 17 of Chapter 113 of the General Statutes which is due and for which no appeal is pending;
- (3) Has been convicted of a misdemeanor pursuant to G.S. 113A-126, G.S. 113-229(k), or any criminal provision of a local ordinance adopted pursuant to this Article; or
- (4) Has failed to substantially comply with State state rules or local ordinances and regulations adopted pursuant to this Article or with other federal and State state laws, regulations, and rules for the protection of the environment."

Section 3. G.S. 143-215.1(c) reads as rewritten:

"(c) Applications for Permits and Renewals for Facilities Discharging to the Surface Waters. --

- (1) All applications for permits and for renewal of existing permits for outlets and point sources and for treatment works and disposal systems discharging to the surface waters of the State shall be in writing, and the Commission may prescribe the form of such applications. All applications shall be filed with the Commission at least 180 days in advance of the date on which it is desired to commence the discharge of wastes or the date on which an existing permit expires, as the case may be. The Commission shall act on a permit application as quickly as possible. The Commission may conduct any inquiry or investigation it considers necessary before acting on an application and may require an applicant to submit

plans, specifications, and other information the Commission considers necessary to evaluate the application.

- (2) a. The Department shall refer each application for permit, or renewal of an existing permit, for outlets and point sources and treatment works and disposal systems discharging to the surface waters of the State to its staff for written evaluation and proposed determination with regard to issuance or denial of the permit. If the Commission concurs in the proposed determination, it shall give notice of intent to issue or deny the permit, along with any other data that the Commission may determine appropriate, to be given to the appropriate State, interstate and federal agencies, to interested persons, and to the public.
- al. The Commission shall prescribe the form and content of the notice. ~~The notice required herein~~ Public notice shall be given at least 45 days prior to any proposed final action granting or denying the permit. Public notice shall be given by publication of the notice one time in a newspaper having general circulation within the county.
- b. Repealed by Session Laws 1987, c. 734.
- (3) If any person desires a public meeting hearing on any application for permit or renewal of an existing permit provided for in this subsection, he shall so request in writing to the Commission within 30 days following date of the notice of intent. The Commission shall consider all such requests for meeting, hearing, and if the Commission determines that there is a significant public interest in holding such meeting, hearing, at least 30 days' notice of such meeting hearing shall be given to all persons to whom notice of intent was sent and to any other person requesting notice. At least 30 days prior to the date of meeting, hearing, the Commission shall also cause a copy of the notice thereof to be published at least one time in a newspaper having general circulation in such county. In any county in which there is more than one newspaper having general circulation in that county, the Commission shall cause a copy of such notice to be published in as many newspapers having general circulation in the county as the Commission in its discretion determines may be necessary to assure that such notice is generally available throughout the county. The Commission shall prescribe the form and content of the notices.

The Commission shall prescribe the procedures to be followed in such meetings, hearings. If the meeting hearing is not conducted by the Commission, detailed minutes of the meeting hearing shall be kept and shall be submitted, along with any other written comments, exhibits or documents presented at the meeting, hearing, to the Commission for its consideration prior to final action granting or denying the permit.

- (4) Not later than 60 days following notice of intent or, if a public hearing is held, within 90 days following consideration of the

matters and things presented at such hearing, the Commission shall grant or deny any application for issuance of a new permit or for renewal of an existing permit. All permits or renewals issued by the Commission and all decisions denying application for permit or renewal shall be in writing.

- (5) No permit issued pursuant to this subsection (c) shall be issued or renewed for a term exceeding five years.
- (6) The Commission shall not act upon an application for a new nonmunicipal domestic wastewater discharge facility until it has received a written statement from each city and county government having jurisdiction over any part of the lands on which the proposed facility and its appurtenances are to be located which states whether the city or county has in effect a zoning or subdivision ordinance and, if such an ordinance is in effect, whether the proposed facility is consistent with the ordinance. The Commission shall not approve a permit application for any facility which a city or county has determined to be inconsistent with its zoning or subdivision ordinance unless it determines that the approval of such application has statewide significance and is in the best interest of the State. An applicant for a permit shall request that each city and county government having jurisdiction issue the statement required by this subdivision by mailing by certified mail, return receipt requested, a written request for such statement and a copy of the draft permit application to the clerk of the city or county. If a local government fails to mail the statement required by this subdivision, as evidenced by a postmark, within 15 days after receiving and signing for the certified mail, the Commission may proceed to consider the permit application notwithstanding this subdivision."

Section 4. G.S. 143-215.3(a)(4) reads as rewritten:

- "(4) To delegate such of the powers of the Commission as the Commission deems necessary to one or more of its members, to the Secretary or any other qualified employee of the Department. ~~Department; provided, that the provisions of any such delegation of power shall be set forth in the rules of the Commission; and provided further that the~~ The Commission shall not delegate to persons other than its own members and the designated employees of the Department the power to conduct hearings with respect to the classification of waters, the assignment of classifications, air quality standards, air contaminant source classifications, emission control standards, or the issuance of any special order except in the case of an emergency under subdivision (12) of this subsection for the abatement of existing water or air pollution. Any employee of the Department to whom a delegation of power is made to conduct a hearing shall report the hearing with its evidence and record to the Commission."

Section 5. G.S. 143-215.4(b) reads as rewritten:

- "(b) Procedures for Public Input. --

- (1) The Commission may, on its own motion or when required by federal law, request public comments on or hold public hearings on matters within the scope of its authority under this Article or Articles 21A or 21B of this Chapter. To request public comments on a matter, the Commission shall notify appropriate agencies of the opportunity to submit written comments to the Commission on the matter and shall publish a notice in a newspaper having general circulation in the affected area, stating the matter under consideration by the Commission and informing the public of its opportunity to submit written comments to the Commission on the matter. A public comment period shall extend for at least 30 days after the notice is published.
- (2) To hold a public hearing on a matter, the Commission shall notify, by personal service or certified mail, persons directly affected by the matter under consideration and shall publish a notice in a newspaper having general circulation in the affected area, stating the matter under consideration by the Commission and the time, date, and place of a public hearing to be held on the matter. A public hearing shall be held no sooner than 20 days after the notice is published. The proceedings at a public hearing held under this subsection shall be recorded. Upon payment of a fee established by the Commission, any person may obtain a copy of the record of the public hearing. After a public hearing, the Commission shall accept written comments for the time period prescribed by the Commission.
- (3) This subsection does not apply to rule-making proceedings, contested case hearings, or the issuance of permits required under Title V. The Commission shall establish procedures for public hearings, public notice, and public comment respecting permits required by Title V as provided by G.S. 143-215.111(4).
- (4) The Commission may hold a public meeting on any matter within its scope of authority. The Commission may hold a public meeting in addition to any public hearing that is required under any provision of law, but a public meeting may not be substituted for any required public hearing. Except as may be otherwise provided by law, the Commission may determine the procedures for any public meeting it holds."

Section 6. G.S. 143-215.112(d)(1a) reads as rewritten:

- "(1a) Each governing body, or its authorized agent, shall have the power to assess civil penalties under G.S. 143-215.114A. Any person assessed shall be notified of the assessment by registered or certified mail, and the notice shall specify the reasons for the assessment. If the person assessed fails to pay the amount of the assessment to the governing body or its authorized agent within 30 days after receipt of notice, or such longer period not to exceed 180 days as the governing body or its authorized agent may specify, the governing body may institute a civil action in the superior court of the county in which the violation occurred, to recover the amount of the assessment. ~~Each day of~~

~~continuing violation after written notification from the governing body or its authorized agent shall be considered a separate offense. If any action or failure to act for which a penalty may be assessed under this section is continuous, the governing body or its authorized agent may assess a penalty not to exceed ten thousand dollars (\$10,000) per day for so long as the violation continues. In determining the amount of the penalty, the governing body or its authorized agent shall consider the degree and extent of harm caused by the violation, the cost of rectifying the damage, and the amount of money the violator saved by not having made the necessary expenditures to comply with the appropriate pollution control requirements."~~

Section 7. G.S. 143-215.114A(b) reads as rewritten:

"(b) ~~Each day of continuing violation after written notification from the Secretary shall be considered a separate offense. If any action or failure to act for which a penalty may be assessed under this section is continuous, the Secretary may assess a penalty not to exceed ten thousand dollars (\$10,000) per day for so long as the violation continues.~~"

Section 8. G.S. 143B-291 reads as rewritten:

"§ 143B-291. *North Carolina Mining Commission -- members; selection; removal; compensation; quorum; services.*

(a) Members, Selection. -- The North Carolina Mining Commission shall consist of nine members appointed by the Governor. ~~The Commission shall be composed of the following: one Governor under a specified subdivision of this subsection as follows:~~

- (1) One member who is the chairman of the North Carolina State University Minerals Research Laboratory Advisory Committee, ex officio. Committee; three representatives of mining industries; three representatives of nongovernmental conservation interests and two who shall represent the Environmental Management Commission and be knowledgeable in the principles of water and air resources management.
- (2) One member who is a representative of the mining industry.
- (3) One member who is a representative of the mining industry.
- (4) One member who is a representative of the mining industry.
- (5) One member who is a representative of nongovernmental conservation interests.
- (6) One member who is a representative of nongovernmental conservation interests.
- (7) One member who is a representative of nongovernmental conservation interests.
- (8) One who, at the time of the appointment to the Mining Commission, is a member of the Environmental Management Commission and knowledgeable in the principles of water and air resources management.
- (9) One who, at the time of the appointment to the Mining Commission, is a member of the Environmental Management Commission and knowledgeable in the principles of water and air resources management.

~~The initial members of the North Carolina Mining Commission shall be those members of the present North Carolina Mining Council who shall meet the above requirements for membership on the North Carolina Mining Commission and who shall serve on the North Carolina Mining Commission for a period equal to the remainder of their current terms on the North Carolina Mining Council. The remaining initial members shall be appointed by the Governor to staggered terms of six years.~~

~~(b) Terms. -- The term of office of a member of the Commission is six years. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term. At the expiration of each member's term, the Governor shall replace the member with a new member of like qualifications for a term of six years. The term of members appointed under subdivisions (2), (5), and (8) of subsection (a) of this section shall expire on 30 June of years that precede by one year those years that are evenly divisible by six. The term of members appointed under subdivisions (3) and (6) of subsection (a) of this section shall expire on 30 June of years that follow by one year those years that are evenly divisible by six. The term of members appointed under subdivisions (4), (7), and (9) of subsection (a) of this section shall expire on 30 June of years that follow by three years those years that are evenly divisible by six. Upon the expiration of a six-year term, a member may continue to serve until a successor is appointed and duly qualified as provided by G.S. 128-7.~~

~~(c) Vacancies. -- An appointment to fill a vacancy shall be for the unexpired balance of the term.~~

~~(d) Removal. -- The Governor shall have the power to may remove any member of the Commission from office for misfeasance, malfeasance, or nonfeasance in accordance with the provisions of G.S. 143B-13 of the Executive Organization Act of 1973, G.S. 143B-13.~~

~~(e) Compensation. -- The members of the Commission shall receive per diem and necessary traveling and subsistence expenses in accordance with the provisions of G.S. 138-5.~~

~~(f) Quorum. -- A majority of the Commission shall constitute a quorum for the transaction of business.~~

~~(g) Staff. -- All clerical and other services required by the Commission shall be supplied by the Secretary of the Department."~~

Section 9. In order to reestablish a schedule of six-year staggered terms for the Mining Commission as required by G.S. 143B-291, as amended by Section 8 of this act, the Governor, in making appointments to replace the two members of the Mining Commission who represent the mining industry and whose terms both expire on 30 June 1997, shall appoint one member under G.S. 143B-291(a)(2) to a full six-year term expiring on 30 June 2003 and shall appoint one member under G.S. 143B-291(a)(4), to a four-year term expiring 30 June 2001.

Section 10. G.S. 143B-313.2 reads as rewritten:

"§ 143B-313.2. *North Carolina Parks and Recreation Authority; members; selection; compensation; meetings.*

(a) *Membership.* -- The North Carolina Parks and Recreation Authority shall consist of 11 members. The members shall include persons who are

knowledgeable about park and recreation issues in North Carolina or with expertise in finance. ~~Three members shall be appointed by the Governor, four members shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121, and four members shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121. The members shall serve at the pleasure of the appointing authority. The Governor shall appoint one of the members to be Chair of the North Carolina Parks and Recreation Authority. Vacancies shall be appointed by the original appointing authority, and the term shall be for the balance of the unexpired term. The North Carolina Parks and Recreation Authority shall meet at a time and place as designated by the Chair, but no less frequently than quarterly. In making appointments, each appointing authority shall specify under which subdivision of this subsection the person is appointed. Members shall be appointed as follows:~~

- (1) One member appointed by the Governor.
- (2) One member appointed by the Governor.
- (3) One member appointed by the Governor.
- (4) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, as provided in G.S. 120-121.
- (5) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, as provided in G.S. 120-121.
- (6) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, as provided in G.S. 120-121.
- (7) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, as provided in G.S. 120-121.
- (8) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, as provided in G.S. 120-121.
- (9) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, as provided in G.S. 120-121.
- (10) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, as provided in G.S. 120-121.
- (11) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, as provided in G.S. 120-121.

(b) Terms. -- Members shall serve two-year terms. Members shall serve no more than two full two-year terms. Upon the expiration of a two-year term, a member may continue to serve until a successor is appointed and duly qualified as provided by G.S. 128-7. The term of members appointed under odd-numbered subdivisions of subsection (a) of this section shall expire on 30 June of odd-numbered years. The term of members appointed

under even-numbered subdivisions of subsection (a) of this section shall expire on 30 June of even-numbered years.

(c) Chair. -- The Governor shall appoint one member of the North Carolina Parks and Recreation Authority to serve as Chair.

(d) Vacancies. -- A vacancy on the North Carolina Parks and Recreation Authority shall be filled by the appointing authority responsible for making the appointment to that position as provided in subsection (a) of this section. An appointment to fill a vacancy shall be for the unexpired balance of the term.

(e) Removal. -- The Governor may remove, as provided in G.S. 143-13, any member of the North Carolina Parks and Recreation Authority appointed by the Governor for misfeasance, malfeasance, or nonfeasance. The General Assembly may remove any member of the North Carolina Parks and Recreation Authority appointed by the General Assembly for misfeasance, malfeasance, or nonfeasance.

(f) Compensation. -- The members of the North Carolina Parks and Recreation Authority shall receive per diem and necessary travel and subsistence expenses according to the provisions of G.S. 138-5.

(g) Meetings. -- The North Carolina Parks and Recreation Authority shall meet at least quarterly at a time and place designated by the Chair.

(h) Quorum. -- A majority of the North Carolina Parks and Recreation Authority shall constitute a quorum for the transaction of business.

(i) Staff. -- All clerical and other services required by the North Carolina Parks and Recreation Authority shall be provided by the Secretary of Environment, Health, and Natural Resources."

Section 11. In order to reestablish a schedule of two-year staggered terms for the North Carolina Parks and Recreation Authority as required by G.S. 143B-313.2, as amended by Section 10 of this act:

- (1) The Governor, in making appointments to replace the one member of the North Carolina Parks and Recreation Authority appointed by the Governor whose term expires on 30 June 1997, shall appoint a member under G.S. 143B-313.2(a)(1) to a full two-year term expiring on 30 June 1999.
- (2) The Governor, in making appointments to replace the two members of the North Carolina Parks and Recreation Authority appointed by the Governor whose terms expire on 30 June 1998, shall appoint one member under G.S. 143B-313.2(a)(2) to a full two-year term expiring on 30 June 2000 and shall appoint one member under G.S. 143B-313.2(a)(3) to a one-year term expiring 30 June 1999.
- (3) The General Assembly, in making appointments to replace the four members of the North Carolina Parks and Recreation Authority appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives whose terms expire on 30 June 1998, shall appoint two members under G.S. 143B-313.2(a)(4) and G.S. 143B-313.2(a)(6) to full two-year terms expiring on 30 June 2000 and shall appoint two

members under G.S. 143B-313.2(a)(5) and G.S. 143B-313.2(a)(7) to one-year terms expiring 30 June 1999.

- (4) The General Assembly, in making appointments to replace the four members of the North Carolina Parks and Recreation Authority appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate whose terms expire on 30 June 1998, shall appoint two members under G.S. 143B-313.2(a)(8) and G.S. 143B-313.2(a)(10) to full two-year terms expiring on 30 June 2000 and shall appoint two members under G.S. 143B-313.2(a)(9) and G.S. 143B-313.2(a)(11) to one-year terms expiring 30 June 1999.

Section 12. G.S. 106-802(4) reads as rewritten:

- "(4) 'Site evaluation' means an investigation to determine if a site meets all federal and State standards as evidenced by the Waste Management Facility Site Evaluation Report on file with the Soil and Water Conservation District office or a comparable report certified by a professional engineer or a comparable report certified by a technical specialist approved by the North Carolina Soil and Water Conservation Commission.

~~Department of Environment, Health and Natural Resources".~~

Section 13. G.S. 143-214.12(a) reads as rewritten:

"(a) Wetlands Restoration Fund. -- The Wetlands Restoration Fund is established as a nonreverting fund within the Department. The Fund shall be treated as a special trust fund and shall be credited with interest by the State Treasurer pursuant to G.S. 147-69.2 and G.S. 147-69.3. The Wetlands Restoration Fund shall provide a repository for monetary contributions and donations or dedications of interests in real property to promote projects for the restoration, enhancement, preservation, or creation of wetlands and riparian areas and for payments made in lieu of compensatory mitigation as described in subsection (b) of this section. No funds shall be expended from this Fund for any purpose other than those directly contributing to the acquisition, perpetual maintenance, enhancement, restoration, or creation of wetlands and riparian areas in accordance with the basinwide plan as described in subsection (a) of this section, G.S. 143-214.10."

Section 14. G.S. 143-215.10G(3) reads as rewritten:

- "(3) For a system with a design capacity of 800,000 pounds or more steady state live weight, two hundred dollars (\$200.00)."

Section 15. G.S. 143-215.74(b)(3) reads as rewritten:

- "(3) Subject to subdivision (7) of this subsection, priority designations for inclusions in the program shall be under the authority of the Soil and Water Conservation ~~Commission and the~~ Commission. The Soil and Water Conservation Commission shall retain the authority to allocate the cost share funds."

Section 16. G.S. 143B-282(a) reads as rewritten:

- "(a) There is hereby created the Environmental Management Commission of the Department of Environment, Health, and Natural Resources with the power and duty to promulgate rules to be followed in the

protection, preservation, and enhancement of the water and air resources of the State.

- (1) Within the limitations of G.S. 143-215.9 concerning industrial health and safety, the Environmental Management Commission shall have all of the following powers and duties:
 - a. To grant a permit or temporary permit, to modify or revoke a permit, and to refuse to grant permits pursuant to G.S. 143-215.1 and G.S. 143-215.108 with regard to controlling sources of air and water ~~pollution; pollution.~~
 - b. To issue a special order pursuant to ~~G.S. 143-215.2(b) and G.S. 143-215.110~~ to any person whom the Commission finds responsible for causing or contributing to any pollution of water within such watershed or pollution of the air within the area for which standards have been ~~established; established.~~
 - c. To conduct and direct that investigations be conducted pursuant to G.S. 143-215.3 and G.S. ~~143-215.108(b)(5); 143-215.108(b)(5).~~
 - d. To conduct public hearings, institute actions in superior court, and agree upon or enter into settlements, all pursuant to G.S. ~~143-215.3; 143-215.3.~~
 - e. To direct the investigation of any killing of fish and wildlife pursuant to G.S. ~~143-215.3; 143-215.3.~~
 - f. To consult with any person proposing to construct, install, or acquire an air or water pollution source pursuant to G.S. 143-215.3 and G.S. ~~143-215.111; 143-215.111.~~
 - g. To encourage local government units to handle air pollution problems and to provide technical and consultative assistance pursuant to G.S. 143-215.3 and G.S. ~~143-215.112; 143-215.112.~~
 - h. To review and have general oversight and supervision over local air pollution control programs pursuant to G.S. 143-215.3 and G.S. ~~143-215.112; 143-215.112.~~
 - i. To declare an emergency when it finds a generalized dangerous condition of water or air pollution pursuant to G.S. ~~143-215.3; 143-215.3.~~
 - j. To render advice and assistance to local government regarding floodways pursuant to G.S. ~~143-215.56; 143-215.56.~~
 - k. To declare and delineate and modify capacity use areas pursuant to G.S. ~~143-215.13; 143-215.13.~~
 - l. To grant permits for water use within capacity use areas pursuant to G.S. ~~143-215.15; 143-215.15.~~
 - m. To direct that investigations be conducted when necessary to carry out duties regarding capacity use areas pursuant to G.S. ~~143-215.19; 143-215.19.~~
 - n. To approve, disapprove and approve subject to conditions all applications for dam construction pursuant to G.S. 143-215.28; to require construction progress reports pursuant to G.S. ~~143-215.29; 143-215.29.~~

- o. To halt dam construction pursuant to G.S. ~~143-215.29; 143-215.29.~~
- p. To grant final approval of dam construction work pursuant to G.S. ~~143-215.30; 143-215.30.~~
- q. To have jurisdiction and supervision over the maintenance and operation of dams pursuant to G.S. ~~143-215.31; 143-215.31.~~
- r. To direct the inspection of dams pursuant to G.S. ~~143-215.32; 143-215.32.~~
- s. To modify or revoke any final action previously taken by the Commission pursuant to G.S. 143-214.1 and G.S. ~~143-215.107; 143-215.107. and~~
- t. To have jurisdiction and supervision over oil pollution pursuant to Article 21A of Chapter ~~143; 143. {and}~~
- u. To administer the State's authority under 33 USC U.S.C. § 1341 of the federal Clean Water Act."

Section 17. Section 17 of Chapter 626 of the 1995 Session Laws (1996 Regular Session) reads as rewritten:

"Sec. 17. No later than October 1, 1996, the Environmental Management Commission and the Soil and Water Conservation Commission, with technical assistance from the Cooperative Extension Service, shall establish the record-keeping requirements under G.S. ~~143-215.1C(e)(8); 143-215.10C(e)(8),~~ as enacted by Section 2 of this act. The Natural Resources Conservation Service is encouraged to cooperate fully with establishing these requirements."

Section 18. Section 2 of Chapter 627 of the 1995 Session Laws (1996 Regular Session) reads as rewritten:

"Sec. 2. G.S. ~~113-133(e)~~ 113-133.1(e) is amended by deleting the words 'Currituck: Session Laws 1959, Chapter 545.'"

Section 19. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law upon approval of the Governor at 4:26 p.m. on the 11th day of September, 1997.

H.B. 431

CHAPTER 497

AN ACT TO PERMIT THE GARNISHMENT OF WAGES TO RECOUP FRAUDULENT PUBLIC ASSISTANCE PROGRAM PAYMENTS AND TO CREATE OFFENSES FOR ILLEGAL POSSESSION OR USE OF FOOD STAMPS.

The General Assembly of North Carolina enacts:

Section 1. Part 1 of Article 2 of Chapter 108A of the General Statutes is amended by adding a new section as follows:

"§ 108A-25.1. Garnishment of wages to recoup fraudulent public assistance program payment.

(a) The following definitions apply in this section:

(1) Disposable income. -- The part of the compensation paid or payable for personal services, whether denominated as wages,

salary, commission, bonus, or otherwise which remains after the deduction of any amounts required by law to be withheld.

- (2) Fraudulent payment. -- Any public assistance program payment made because of a recipient's false statement or representation or failure to disclose a material fact which occurs willfully and knowingly and with intent to deceive.
- (3) Garnishee. -- The person, firm, association, or corporation owing compensation for personal services, whether denominated as wages, salary, commission, bonus, or otherwise.
- (4) Public assistance program. -- Any means-tested benefit program administered or supervised by a county department of social services or the Department of Human Resources which is funded in whole or in part by federal, State, or county resources.

(b) In any case in which a recipient or former recipient of a public assistance program, who while a recipient, obtained or benefited from a fraudulent payment, a judge of the district court in the county where the recipient or former recipient resides or is found, or in the county where the payment was made, may enter an order of garnishment to recoup a fraudulent payment after 10 days following the entry of a judgment for a sum certain for fraudulent payments pursuant to a petition filed in the action in accordance with subsection (c) of this section. Not more than twenty percent (20%) of the recipient's or former recipient's monthly disposable income may be garnished to recoup payment in cases of fraudulent payment. The order of garnishment shall be subject to all federal and State laws or regulations that may apply to recoupment of fraudulent payments. Garnishment shall not be a remedy under this section when the recipient or former recipient is required to pay restitution for fraudulent public assistance payments pursuant to a criminal court order.

(c) A county department of social services or the Department of Human Resources may petition the court for an order of garnishment to recoup a fraudulent public assistance program payment. Garnishment shall be a remedy to recoup payment only after all administrative remedies are exhausted unsuccessfully. The petition shall be verified and provide the court with facts and circumstances of the fraudulent payment to or on behalf of the recipient or former recipient, the name and address of the garnishee, the recipient's or former recipient's monthly disposable income (which may be based on information and belief), and the amount sought to be garnished from the recipient's or former recipient's disposable income. The petition shall be served on both the recipient or former recipient and the garnishee in accordance with the provisions for service of process set forth in G.S. 1A-1, Rule 4. The time period for answering or otherwise responding to process issued pursuant to this section shall be in accordance with the time periods set forth in G.S. 1A-1, Rule 12.

(d) Upon a hearing held pursuant to this section, the court may enter an order of garnishment. Provided, the court may not enter an order of garnishment if the court finds that the order jeopardizes the recipient's or former recipient's ability to become or remain financially self-sufficient and will result in the likelihood of an increased or recurring dependency on public assistance or an inability to secure basic necessities including, but not

limited to, housing, food, health care, and utility costs. If an order of garnishment is entered, a copy of the same shall be served on both the recipient or the former recipient and the garnishee either personally or by certified or registered mail, return receipt requested. The order shall set forth sufficient findings of facts to support the action by the court and the amount to be garnished for each pay period. The amount garnished may be increased by an additional one dollar (\$1.00) processing fee to be assessed and retained by the garnishee for each payment under the order. The order shall be subject to review for modification and dissolution upon the filing of a motion in the cause.

(e) Upon receipt of the order of garnishment, the garnishee shall transmit without delay to the clerk of superior court the amount ordered by the court to be garnished. These funds shall be disbursed to the county department of social services to recoup fraudulent payments subject to the order of garnishment entered pursuant to this section.

(f) A garnishee who violates the terms of an order of garnishment shall be subject to punishment for contempt.

(g) The Social Services Commission shall adopt rules to implement this section. The rules shall ensure that a petition for an order of garnishment sought pursuant to this section is consistent with all federal and State laws and regulations."

Section 2. Part 5 of Article 2 of Chapter 108A of the General Statutes is amended by adding a new section as follows:

"§ 108A-53.1. *Illegal possession or use of food stamps.*

(a) Any person who knowingly buys, sells, distributes, or possesses with the intent to sell, or distribute food stamp coupons, authorization cards, or access devices in any manner contrary to that authorized by this Part or the regulations issued pursuant thereto shall be guilty of a Class H felony.

(b) Any person who knowingly uses, transfers, acquires, alters, or possesses food stamp coupons, authorization cards, or access devices in any manner contrary to that authorized by this Part or the regulations issued pursuant thereto, other than as set forth in subsection (a) of this section, shall be guilty of a Class 1 misdemeanor if the value of such food stamp coupons, authorization cards, or access devices is less than one hundred dollars (\$100.00), or a Class A1 misdemeanor if the value of such food stamp coupons, authorization cards, or access devices is equal to at least one hundred dollars (\$100.00) but less than five hundred dollars (\$500.00), or a Class I felony if the value of such food stamp coupons, authorization cards, or access devices is equal to at least five hundred dollars (\$500.00) but less than one thousand dollars (\$1,000), or a Class H felony if the value of such food stamp coupons, authorization cards, or access devices equals or exceeds one thousand dollars (\$1,000)."

Section 3. The Social Services Commission shall adopt temporary rules and initiate permanent rulemaking to implement Section 1 of this act within 90 days of the date this act is signed into law.

Section 4. Section 1 of this act becomes effective December 1, 1997, and applies to actions filed on or after that date to recover fraudulent payments of public assistance. Section 2 of this act becomes effective

December 1, 1997, and applies to acts committed on or after that date. The remainder of this act becomes effective when this act becomes law.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law upon approval of the Governor at 4:27 p.m. on the 11th day of September, 1997.

H.B. 452

CHAPTER 498

AN ACT TO AMEND THE BEACH PLAN PARTICIPATION FORMULA, PROVIDE FOR WINDSTORM AND HAIL INSURANCE IN COASTAL COUNTIES, AUTHORIZE THE LEGISLATIVE RESEARCH COMMISSION TO STUDY THE AVAILABILITY OF PROPERTY INSURANCE IN THE STATE, AND REVISE OTHER STATUTES RELATED TO THE INSURANCE UNDERWRITING ASSOCIATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-45-5 reads as rewritten:

"§ 58-45-5. *Definition of terms.*

In As used in this Article, unless the context clearly otherwise requires, requires:

- (1) 'Association' means the North Carolina Insurance Underwriting Association established ~~pursuant to the provisions of~~ under this Article;
- (2) 'Beach area' means all of that area of the State of North Carolina south and east of the inland waterway from the South Carolina line to Fort Macon (Beaufort Inlet); thence south and east of Core, Pamlico, Roanoke and Currituck sounds to the Virginia line, being those portions of land generally known as the Outer Banks;
- (2a) 'Coastal area' means all of that area of the State of North Carolina comprising the following counties: Beaufort, Brunswick, Camden, Carteret, Chowan, Craven, Currituck, Dare, Hyde, Jones, New Hanover, Onslow, Pamlico, Pasquotank, Pender, Perquimans, Tyrrell, and Washington. 'Coastal area' does not include the portions of these counties that lie within the beach area.
- (3) Repealed by Session Laws 1991, c. 720, s. 6.
- (3a) 'Crime insurance' means insurance against losses resulting from robbery, burglary, larceny, and similar crimes, as more specifically defined and limited in the various crime insurance policies, or their successor forms of coverage, approved by the Commissioner and issued by the Association. Such policies shall not be more restrictive than those issued under the Federal Crime Insurance Program authorized by Public Law 91-609.
- (3b) 'Directors' means the Board of Directors of the Association.
- (4) 'Essential property insurance' means insurance against direct loss to property as defined in the standard statutory fire policy and

extended coverage, vandalism and malicious mischief endorsements thereon, or their successor forms of coverage, as approved by the Commissioner;

- (5) 'Insurable property' means real property at fixed locations in the Beach area beach and coastal area, including travel trailers when tied down at a fixed location, or the tangible personal property located therein, but shall not include insurance on motor vehicles or farm risks; vehicles; which property is determined by the Association, after inspection and under the criteria specified in the plan of operation, to be in an insurable condition. However, any one and two family dwellings built in substantial accordance with the Federal Manufactured Home Construction and Safety Standards, any predecessor or successor federal or State construction or safety standards, and any further construction or safety standards promulgated by the association and approved by the Commissioner, or the North Carolina Uniform Residential Building Code and any structure or building built in substantial compliance with the North Carolina State Building Code, including the design-wind requirements, which is not otherwise rendered uninsurable by reason of use or occupancy, shall be an insurable risk within the meaning of this Article. However, none of the following factors shall be considered in determining insurable condition: neighborhood, area, location, environmental hazards beyond the control of the applicant or owner of the property. Also, any structure begun on or after January 1, 1970, not built in substantial compliance with the Federal Manufactured Home Construction and Safety Standards, any predecessor or successor federal or State construction or safety standards, and any further construction or safety standards promulgated by the association and approved by the Commissioner, or the North Carolina Uniform Residential Building Code or the North Carolina State Building Code, including the design-wind requirements therein, shall not be an insurable risk. The owner or applicant shall furnish with the application proof in the form of a certificate from a local building inspector, contractor, engineer or architect that the structure is built in substantial accordance with the Federal Manufactured Home Construction and Safety Standards, any predecessor or successor federal or State construction or safety standards, and any further construction or safety standards promulgated by the association and approved by the Commissioner, or the North Carolina Uniform Residential Building Code or the North Carolina State Building Code; however, an individual certificate shall not be necessary where the structure is located within a political subdivision which has certified to the Association on an annual basis that it is enforcing the North Carolina Uniform Residential Building Code or the North Carolina State Building Code and has no plans to discontinue enforcing these codes during that year.

- (6) Repealed by Session Laws 1995 (Regular Session, 1996), c. 592, s. 2.
- (6a) 'Net direct premiums' means gross direct premiums (excluding reinsurance assumed and ceded) written on property in this State for essential property insurance, farmowners insurance, homeowners insurance, and the property portion of commercial multiple peril insurance policies as computed by the Commissioner, less:
- a. Return premiums on uncanceled contracts;
 - b. Dividends paid or credited to policyholders; and
 - c. The unused or unabsorbed portion of premium deposits.
- (7) 'Plan of operation' or 'plan' means the plan of operation of the Association approved or promulgated by the Commissioner, pursuant to the provisions of Commissioner under this Article.'

Section 2. G.S. 58-45-25 reads as rewritten:

"§ 58-45-25. Each member of Association to participate in its expenses, profits, and losses.

~~All members of the Association shall participate in its expenses, profits, and losses and shall receive credit annually for essential property insurance voluntarily written as determined by the directors of the Association, with the approval of the Commissioner. Participation of each member in the losses of the Association shall be reduced accordingly. Any insurer authorized to write and engage in writing any insurance, the writing of which requires the insurer to be a member of the Association, pursuant to G.S. 58-45-10, shall become a member of the Association on the January 1 immediately following authorization and the determination of the insurer's participation in the Association shall be made as of the date of membership in the same manner as for all other members of the Association.~~

(a) Each member of the Association shall participate in the expenses, profits, and losses of the Association in the proportion that its net direct premium written in this State during the preceding calendar year for residential and commercial properties outside of the beach and coastal areas bears to the aggregate net direct premiums written in this State during the preceding calendar year for residential and commercial properties outside of the beach and coastal areas by all members of the Association, as certified to the Association by the Commissioner. The Commissioner shall certify each member's participation after review of annual statements and any other reports and data necessary to determine participation and may obtain any necessary information or data from any member of the Association for this purpose. Any insurer that is authorized to write and that is engaged in writing any insurance, the writing of which requires the insurer to be a member of the Association under G.S. 58-45-10, shall become a member of the Association on the first day of January after authorization. The determination of the insurer's participation in the Association shall be made as of the date of membership of the insurer in the same manner as for all other members of the Association.

(b) All member companies shall receive credit each year for essential property insurance, farmowners insurance, homeowners insurance, and the property portion of commercial multiple peril policies voluntarily written in

the beach and coastal areas in accordance with guidelines and procedures to be submitted by the Directors to the Commissioner for approval. The participation of each member company in the expenses, profits, and losses of the Association shall be reduced accordingly; provided, no credit shall be given where coverage for the peril of wind has been excluded. The guidelines and procedures for granting credit shall encourage and assist each member company to voluntarily write these coverages in the beach and coastal areas for commercial and residential properties."

Section 3. G.S. 58-45-30(a) reads as rewritten:

"(a) Within 90 days after April 17, 1969, the directors of the Association The Directors shall submit to the Commissioner for his review and approval, a proposed plan of operation. ~~Such proposed~~ The plan shall set forth the number, qualifications, terms of office, and manner of election of the members of the board of directors, and shall grant proper credit annually to each member of the Association for essential property insurance insurance, farmowners, homeowners insurance, and the property portion of commercial multiple peril policies voluntarily written in the beach area and coastal areas and shall provide for the efficient, economical, fair and nondiscriminatory administration of the Association and for the prompt and efficient provision of essential property insurance in the beach and coastal areas of North Carolina so as to promote orderly community development in those areas and to provide means for the adequate maintenance and improvement of the property in such those areas. ~~Such proposed~~ The plan may include a preliminary assessment of all members for initial expenses necessary to the commencement of operation; the establishment of necessary facilities; management of the Association; plan for the assessment of members to defray losses and expenses; underwriting standards; procedures for the acceptance and cession of reinsurance; procedures for determining the amounts of insurance to be provided to specific risks; time limits and procedures for processing applications for insurance insurance; and for such any other provisions as may be deemed that are considered necessary by the Commissioner to carry out the purposes of this Article."

Section 4. G.S. 58-33-100 reads as rewritten:

"§ 58-33-100. Payment of premium to agent valid; obtaining by fraud a crime.

(a) Any agent, broker or limited representative who acts for a person other than himself negotiating a contract of insurance is, for the purpose of receiving the premium therefor, the company's agent, whatever conditions or stipulations may be contained in the policy or contract. This subsection does not apply to the Insurance Underwriting Association established under Article 45 of this Chapter or the Joint Underwriting Association established under Article 46 of this Chapter.

(b) Such Any agent, broker or limited representative knowingly procuring by fraudulent representations payment, or the obligation for the payment, of a premium of insurance, shall be guilty of a Class 1 misdemeanor."

Section 5. G.S. 58-45-35(b) reads as rewritten:

"(b) If the Association determines that the property is insurable and that there is no unpaid premium due from the applicant for prior insurance on the property, the Association, upon receipt of the premium, or part of the premium, as is prescribed in the plan of operation, shall cause to be issued

a policy of essential property insurance and shall offer additional extended coverage, optional perils endorsements, business income and extra expense coverage, crime insurance, separate policies of windstorm and hail insurance, or their successor forms of coverage, for a term of one year or three years. Short term policies may also be issued. Any policy issued under this section shall be renewed, upon application, as long as the property is insurable property."

Section 6. G.S. 58-45-35(e) reads as rewritten:

"(e) Policies of windstorm and hail insurance provided for in subsection (b) of this section are available only for risks in the beach and coastal areas for which essential property insurance has been written by licensed insurers. Whenever such other essential property insurance written by licensed insurers includes replacement cost coverage, the Association shall also offer replacement cost coverage. In order to be eligible for a policy of windstorm and hail insurance, the applicant shall provide the Association, along with the premium payment for the windstorm and hail insurance, a certificate that the essential property insurance is in force. The policy forms for windstorm and hail insurance shall be filed by the Association with the Commissioner for his approval before they may be used. Catastrophic losses, as determined by the Association and approved by the Commissioner, that are covered under the windstorm and hail coverage in the beach and coastal areas shall be adjusted by the licensed insurer that issued the essential property insurance and not by the Association. Expenses incurred by the licensed insurer in adjusting windstorm and hail losses shall be reimbursed by the Association."

Section 7. G.S. 58-45-45(b) reads as rewritten:

"(b) The rates, rating plans, and rating rules for the separate policies of windstorm and hail insurance described in G.S. 58-45-35(b) shall be filed by the Association with the Commissioner for the Commissioner's approval, disapproval, or modification. The provisions of Articles 40 and 41 of this Chapter shall govern the filings. For windstorm and hail policies issued or renewed in the coastal area, unless otherwise determined by the Commissioner, the Association shall charge ninety percent (90%) of the approved windstorm and hail rates for the coastal area. Policy deductible plans, consistent with G.S. 58-45-1(b), may be filed by the Association with the Commissioner for the Commissioner's approval, disapproval, or modification."

Section 8. Effective January 1, 2000, G.S. 58-45-45(b), as amended by Section 7 of this act, reads as rewritten:

"(b) The rates, rating plans, and rating rules for the separate policies of windstorm and hail insurance described in G.S. 58-45-35(b) shall be filed by the Association with the Commissioner for the Commissioner's approval, disapproval, or modification. The provisions of Articles 40 and 41 of this Chapter shall govern the filings. For windstorm and hail policies issued or renewed in the coastal area, unless otherwise determined by the Commissioner, the Association shall charge ninety percent (90%) of the approved windstorm and hail rates for the coastal area. Policy deductible plans, consistent with G.S. 58-45-1(b), may be filed by the Association with

the Commissioner for the Commissioner's approval, disapproval, or modification."

Section 9. G.S. 58-45-1 reads as rewritten:

"§ 58-45-1. *Declarations and purpose of Article.*

(a) It is hereby declared by the General Assembly of North Carolina that an adequate market for essential property insurance is necessary to the economic welfare of the ~~beach area~~ beach and coastal areas of the State of North Carolina and that without such insurance the orderly growth and development of ~~the beach area of the State of North Carolina~~ those areas would be severely impeded; that furthermore, adequate insurance upon property in the ~~beach area~~ beach and coastal areas is necessary to enable homeowners and commercial owners to obtain financing for the purchase and improvement of their property; and that while the need for such insurance is increasing, the market for such insurance is not adequate and is likely to become less adequate in the future; and that the present plans to provide adequate insurance on property in the ~~beach area~~ beach and coastal areas, while deserving praise, have not been sufficient to meet the needs of this area. It is further declared that the State has an obligation to provide an equitable method whereby every licensed insurer writing essential property insurance in North Carolina is required to meet its public responsibility instead of shifting the burden to a few willing and public-spirited insurers. It is the purpose of this Article to accept this obligation and to provide a mandatory program to assure an adequate market for essential property insurance in the ~~beach area~~ beach and coastal areas of North Carolina.

(b) The General Assembly further declares that it is its intent in creating and, from time to time, amending this Article that the market provided by this Article not be the first market of choice, but the market of last resort."

Section 10. G.S. 58-46-1(a) reads as rewritten:

"(a) It is the purpose of this Article to provide a program whereby adequate basic property insurance may be made available to property owners having insurable property in the State. It is further the purpose of this Article to encourage the improvement of properties located in the State and to arrest the decline of properties located in the State. It is the intent of the General Assembly in creating and, from time to time, amending this Article that the market provided by this Article not be the first market of choice, but the market of last resort."

Section 11. The Legislative Research Commission may study the provisions of Articles 45 and 46 of Chapter 58 of the General Statutes, other relevant portions of the North Carolina General Statutes, and the plans and operations of the North Carolina Insurance Underwriting Association and the North Carolina Joint Underwriting Association. The Commission may consider all possible options to improve availability of property and homeowners insurance in the State. The Commission may report its findings and recommendations, along with legislation, to the 1998 Regular Session of the 1997 General Assembly and to the 1999 General Assembly.

Section 12. The North Carolina Insurance Underwriting Association and the Commissioner of Insurance shall consider any further revisions necessary for the participation formulas of the Association for the

purpose of encouraging insurance companies to voluntarily write property insurance policies in the beach and coastal areas of the State.

Section 13. The North Carolina Insurance Underwriting Association shall use the "take out" program, as filed with and approved by the Commissioner, in the coastal area.

Section 14. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of the act as a whole or any part other than the part so declared to be unconstitutional or invalid.

Section 15. Section 4 of this act becomes effective October 1, 1997. Sections 2, 3, 6, 7, 8, 9, 10, and 13 of this act become effective January 1, 1998. The remainder of this act is effective when it becomes law.

It was read three times and ratified this the 28th day of August, 1997.

Became law upon approval of the Governor at 4:28 p.m. on the 11th day of September, 1997.

H.B. 537

CHAPTER 499**AN ACT TO PROVIDE RELIEF FOR FEDERAL RETIREES AND THE SURVIVING SPOUSES OF FEDERAL RETIREES.**

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-151.20 reads as rewritten:

"§ 105-151.20. *Credit or partial refund for tax paid on certain federal retirement benefits.*

(a) Purpose; Definitions. -- The purpose of this section is to benefit certain retired federal government workers on account of their public service. The following definitions apply in this section:

- (1) Federal retirement benefits. -- Retirement benefits received from one or more federal government retirement plans.
- (2) Net pension tax. -- The amount of tax a taxpayer paid under this Division for the 1985, 1986, 1987, and 1988 tax years on federal retirement benefits, without interest, less any part of the tax for which the taxpayer received a credit under this section before 1997 and any part of the tax refunded to the taxpayer before 1997.
- (3) Tax year. -- The taxpayer's taxable year beginning on a day in the applicable calendar year.

(b) Credit. -- A taxpayer who received federal retirement benefits during the 1985, 1986, 1987, or 1988 tax year may claim a credit against the tax imposed by this Division equal to the net pension tax on those benefits. The credit allowed under this section shall be taken in equal installments over the taxpayer's first three taxable years beginning on or after January 1, 1996. The credit allowed under this section may not exceed the amount of tax imposed by this Division reduced by the sum of all credits allowed against the tax, except payments of tax made by or on behalf of the taxpayer-taxpayer; any unused portion of a credit installment may be carried forward to the 1999 and 2000 tax years.

(c) **Partial Refund Alternative.** -- If the amount of tax imposed by this Division on the taxpayer for the taxpayer's 1996 tax year, reduced by the sum of all credits allowed against the tax except payments of tax made by or on behalf of the taxpayer, is less than five percent (5%) of the taxpayer's net pension tax for which credit is allowed, the taxpayer is eligible to elect a partial refund under this subsection in lieu of claiming the credit. The partial refund allowed under this subsection is equal to the lesser of eighty-five percent (85%) of the taxpayer's net pension tax or the reduced amount determined by the Secretary as provided in this subsection. To elect the partial refund, an eligible taxpayer must file with the Secretary on or before April 15, 1997, a written request for a partial refund of the taxpayer's net pension. The Secretary shall calculate from these requests eighty-five percent (85%) of the total amount of net pension tax for which partial refunds have been claimed and, if this sum exceeds the amount in the Federal Retiree Refund Account created in this section, shall allocate the amount in the Account among the eligible taxpayers claiming partial refunds by reducing each taxpayer's claimed refund in proportion to the size of the claimed refund. The Secretary shall remit these partial refunds before January 1, 1998.

(d) **Substantiation; Deceased Taxpayers.** -- In order to claim a refund or credit under this section, a taxpayer must provide any information required by the Secretary to establish the taxpayer's eligibility for tax benefit and the amount of the tax benefit. In the case of a taxpayer who is deceased, the representative of the taxpayer's estate may claim the refund ~~or credit~~ in the name of the deceased ~~taxpayer~~ taxpayer and, if the taxpayer does not qualify for a refund, the surviving spouse may claim the deceased taxpayer's credit. If there is no surviving spouse, the representative of the taxpayer's estate may claim the credit in the name of the taxpayer but may not carry forward any unused portion of the credit to the 1999 or 2000 tax year.

(e) **Federal Retiree Accounts.** -- There are created in the Department of Revenue two special accounts to be known as the Federal Retiree Refund Account and the Federal Retiree Administration Account. Funds in the Federal Retiree Refund Account shall be spent only for partial refunds pursuant to subsection (c) of this section. The Department of Revenue may use funds in the Federal Retiree Administration Account only for the costs of administering this section. Funds in the Federal Retiree Refund Account and the Federal Retiree Administration Account shall not revert to the General Fund until the Director of the Budget certifies that the Department of Revenue has completed all duties necessary to implement this section, including processing the escheat of refund checks that have not been cashed."

Section 2. Section 2 of Chapter 19 of the Session Laws, Second Extra Session 1996, is repealed.

Section 3. The Secretary of Revenue shall transfer the sum of eight million dollars (\$8,000,000) from the Federal Retiree Refund Account to the General Fund to reimburse the General Fund for the additional loss resulting from this act.

Section 4. Section 3 of this act is effective when it becomes law. The remainder of this act is effective for taxable years beginning on or after January 1, 1996.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law upon approval of the Governor at 4:28 p.m. on the 11th day of September, 1997.

H.B. 853

CHAPTER 500**AN ACT TO AMEND THE PROFESSIONAL CORPORATION ACT TO ALLOW COLLABORATIVE PRACTICES BETWEEN PHYSICIANS AND AUDIOLOGISTS AND BETWEEN OPHTHALMOLOGISTS AND OPTOMETRISTS.**

The General Assembly of North Carolina enacts:

Section 1. G.S. 55B-14(c) reads as rewritten:

"(c) A professional corporation may also be formed by and between or among:

- (1) A licensed psychologist and a physician practicing psychiatry to render psychotherapeutic and related ~~services;~~ services.
- (2) Any combination of a registered nurse, nurse practitioner, certified clinical specialist in psychiatric and mental health nursing, certified nurse midwife, and certified nurse anesthetist, to render nursing and related services that the respective stockholders are licensed, certified, or otherwise approved to ~~provide;~~ provide.
- (3) A physician and a physician assistant who is licensed, registered, or otherwise certified under Chapter 90 of the General Statutes to render medical and related ~~services;~~ services.
- (4) A physician practicing psychiatry, or a licensed psychologist, or both, and a certified clinical specialist in psychiatric and mental health nursing, or a certified clinical social worker, or both, to render psychotherapeutic and related services that the respective stockholders are licensed, certified, or otherwise approved to ~~provide;~~ provide.
- (5) A physician and any combination of a nurse practitioner, certified clinical specialist in psychiatric and mental health nursing, or certified nurse midwife, registered or otherwise certified under Chapter 90 of the General Statutes, to render medical and related services that the respective stockholders are licensed, certified, or otherwise approved to ~~provide;~~ and provide.
- (6) A physician practicing anesthesiology and a certified nurse anesthetist to render anesthesia and related medical services that the respective stockholders are licensed, certified, or otherwise approved to provide.
- (7) A physician and an audiologist who is licensed under Article 22 of Chapter 90 of the General Statutes to render audiological and related medical services that the respective stockholders are licensed, certified, or otherwise approved to provide.

- (8) A physician practicing ophthalmology and an optometrist who is licensed under Article 6 of Chapter 90 of the General Statutes to render either or both of ophthalmic services and optometric and related services that the respective stockholders are licensed, certified, or otherwise approved to provide."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law upon approval of the Governor at 4:29 p.m. on the 11th day of September, 1997.

H.B. 1132

CHAPTER 501

AN ACT TO ADD CERTAIN DRUGS TO SCHEDULE IV OF THE LIST OF CONTROLLED SUBSTANCES, TO MAKE IT A CRIMINAL OFFENSE TO CONTAMINATE FOOD OR DRINK WITH ANY CONTROLLED SUBSTANCE THAT WOULD RENDER A PERSON MENTALLY INCAPACITATED OR PHYSICALLY HELPLESS, OR TO MANUFACTURE OR POSSESS SUCH A CONTROLLED SUBSTANCE UNLESS IT IS FOR MEDICAL PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-92(a) reads as rewritten:

"(a) Depressants. -- Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

1. Alprazolam.
2. Barbital.
3. Bromazepam.
4. Camazepam.
5. Chloral betaine.
6. Chloral hydrate.
7. Chlordiazepoxide.
8. Clobazam.
9. Clonazepam.
10. Clorazepate.
11. Clotiazepam.
12. Cloxazolam.
13. Delorazepam.
14. Diazepam.
15. Estazolam.
16. Ethchlorvynol.
17. Ethinamate.
18. Ethyl loflazepate.
19. Fludiazepam.
20. Flunitrazepam.
21. Flurazepam.

- 22a. Gamma Hydroxybutyric Acid.
- 22. Halazepam.
- 23. Haloxazolam.
- 24. Ketazolam.
- 25. Loprazolam.
- 26. Lorazepam.
- 27. Lormetazepam.
- 28. Mebutamate.
- 29. Medazepam.
- 30. Meprobamate.
- 31. Methohexital.
- 32. Methylphenobarbital (mephobarbital).
- 33. Midazolam.
- 34. Nimetazepam.
- 35. Nitrazepam.
- 36. Nordiazepam.
- 37. Oxazepam.
- 38. Oxazolam.
- 39. Paraldehyde.
- 40. Petrichloral.
- 41. Phenobarbital.
- 42. Pinazepam.
- 43. Prazepam.
- 44. Quazepam.
- 45. Temazepam.
- 46. Tetrazepam.
- 47. Triazolam.
- 48. Zolpidem."

Section 2. Article 52 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-401.15. Contaminate food or drink to render one mentally incapacitated or physically helpless.

(a) It is unlawful knowingly to contaminate any food, drink, or other edible or potable substance with a controlled substance as defined in G.S. 90-87(5) that would render a person mentally incapacitated or physically helpless with the intent of causing another person to be mentally incapacitated or physically helpless.

(b) It is unlawful knowingly to manufacture, sell, deliver, or possess with the intent to manufacture, sell, deliver, or possess a controlled substance as defined in G.S. 90-87(5) for the purpose of violating this section.

(c) A violation of this section is a Class H felony. However, if a person violates this section with the intent of committing an offense under G.S. 14-27.3 or G.S. 14-27.5, the violation is a Class G felony.

(d) This act does not apply if the controlled substance added to the food, drink, or other edible or potable substance is done at the direction of a licensed physician as part of a medical procedure or treatment with the patient's consent."

Section 3. This act becomes effective December 1, 1997, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law upon approval of the Governor at 4:30 p.m. on the 11th day of September, 1997.

S.B. 636

CHAPTER 502

AN ACT TO AUTHORIZE THE ESTABLISHMENT OF LOCAL PUBLIC HEALTH AUTHORITIES, AS RECOMMENDED BY THE NORTH CAROLINA PUBLIC HEALTH COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Article 2 of Chapter 130A of the General Statutes is amended by adding a new Part to read:

"Part 1A. Public Health Authorities Authorized.

"§ 130A-43. Title and purpose.

(a) This Part shall be known and may be cited as the 'Public Health Authorities Act'.

(b) The purpose of this Part is to provide an alternative method for counties to provide public health services. This Part shall not be regarded as repealing any powers now existing under any other law, either general, special, or local.

(c) It is the policy of the General Assembly that Public Health Authorities should have adequate authority to exercise the powers, rights, duties, functions, privileges, and immunities conferred upon them by law.

"§ 130A-44. Definitions.

As used in this Part, unless otherwise specified:

- (1) 'Authority service area' means the area within the boundaries of the authority as provided for in G.S. 130A-45.4.
- (2) 'Board' means a public health authority board created under this Part.
- (3) 'Department' means the Department of Health and Human Services.
- (4) 'County board of commissioners' means the legislative body charged with governing the county.
- (5) 'County' means the county which is, or is about to be, included in the territorial boundaries of a public health authority when created hereunder.
- (6) 'Federal government' means the United States of America, or any agency, instrumentality, corporate or otherwise, of the United States of America.
- (7) 'Government' means the State and federal governments and any subdivision, agency, or instrumentality, corporate or otherwise, of either of them.
- (8) 'Public health authority' means a public body and a body corporate and politic organized under the provisions of this Part.
- (9) 'Public health facility' means any one or more buildings, structures, additions, extensions, improvements, or other facilities, whether or not located on the same site or sites,

machinery, equipment, furnishings or other real or personal property suitable for providing public health services; and includes, without limitation, local public health departments or centers; public health clinics and outpatient facilities; nursing homes, including skilled nursing facilities and intermediate care facilities, adult care homes for the aged and disabled; public health laboratories; administration buildings, central service and other administrative facilities; communication, computer and other electronic facilities; pharmaceutical facilities; storage space; vehicular parking lots and other such public health facilities, customarily under the jurisdiction of or provided by public health departments, or any combination of the foregoing, with all necessary, convenient or related interests in land, machinery, apparatus, appliances, equipment, furnishings, appurtenances, site preparation, landscaping, and physical amenities.

- (10) 'Real property' means lands, lands under water, structures, and any and all easements, franchises and incorporeal hereditaments and every estate and right therein, legal and equitable, including terms for years and liens by way of judgment, mortgage or otherwise.

- (11) 'State' means the State of North Carolina.

"§ 130A-45. Creation of a public health authority.

(a) A public health authority may be created whenever a county board of commissioners finds and adopts a resolution finding that it is in the interest of the public health and welfare to create a public health authority to provide public health services as required under G.S. 130A-34.

(b) A public health authority including more than one county may be formed upon joint resolution of the county boards of commissioners and local boards of health having jurisdiction over each of the counties involved.

(c) After the adoption of a resolution creating a public health authority, a public health authority board shall be appointed in accordance with G.S. 130A-45.1.

(d) A county may join a public health authority upon joint resolution of the boards of commissioners and local boards of health having jurisdiction over each of the counties involved.

(e) A public health authority board shall govern the public health authority. All powers, duties, functions, rights, privileges, or immunities conferred on the public health authority may be exercised by the authority board.

(f) The public health authority board shall absorb the functions, assets, and liabilities of the county or district boards of health, and that board is dissolved.

(g) For the purpose of Chapter 159 of the General Statutes, a public health authority is a public authority as defined in G.S. 159-7(b)(10).

(h) Before adopting a resolution creating a public health authority, the county board of commissioners shall hold a public hearing with notice published at least 10 days before the hearing.

(i) For the purposes of Article 9 of Chapter 131E of the General Statutes, a public health authority is a person as defined in G.S. 131E-176(19).

"§ 130A-45.1. Membership of the public health authority board.

(a) A public health authority board shall be the policy-making, rule-making, and adjudicatory body for a public health authority and shall be composed of no fewer than seven members and no more than nine members; except that in an authority comprising two or more counties, the board shall be composed of no more than 11 members.

(b) In a single county authority, the county board of commissioners shall appoint the members of the board; in an authority comprising two or more counties, the chair of the county board of commissioners of each county in the authority shall appoint one county commissioner, or the commissioner's express designee, to the authority board and these members shall jointly appoint the other members of the board.

(c) The members of the board shall include:

- (1) At least one physician licensed under Chapter 90 of the General Statutes to practice medicine in this State, and at least one dentist licensed under Article 2 of Chapter 90 of the General Statutes to practice dentistry in this State;
- (2) At least one county commissioner or the commissioner's express designee from each county in the authority;
- (3) At least two licensed or registered professionals from any of the following professions: optometry, veterinary science, nursing, pharmacy, engineering, or accounting;
- (4) At least one member from the administrative staff of a hospital serving the authority service area; and
- (5) At least one member from the general public.

(d) Except as provided in this subsection, members of the board shall serve terms of three years. Two of the original members shall serve terms of one year, and two of the original members shall serve terms of two years.

(e) Any member who is a county commissioner serves on the board in an ex officio capacity.

(f) Whenever a county shall join or withdraw from an existing public health authority, the board shall be dissolved and a new board shall be appointed as provided in subsection (b) of this section.

(g) Vacancies shall be filled within 120 days for any unexpired portion of a term.

(h) A chair shall be elected annually by a board. The authority director shall serve as secretary to the board.

(i) A majority of the members shall constitute a quorum.

(j) A member may be removed from office by the board for any of the following:

- (1) Commission of a felony or other crime involving moral turpitude.
- (2) Violation of a State law governing conflict of interest.
- (3) Violation of a written policy adopted by the county board of commissioners of each county in the authority.
- (4) Habitual failure to attend meetings.
- (5) Conduct that tends to bring the office into disrepute.
- (6) Failure to maintain qualifications for appointment required under subsection (c) of this section.

A board member may be removed only after the member has been given written notice of the basis for removal and has had the opportunity to respond.

(k) Board members shall receive no compensation for their services, but they shall be entitled to reimbursement for subsistence and travel expenses incurred in the discharge of their duties.

(l) The board shall meet at least quarterly. The chair or three of the members may call a special meeting.

"§ 130A-45.2. Dissolution of a public health authority.

(a) Whenever the board of commissioners of each county constituting a public health authority determines that the authority is not operating in the best health interests of the authority service area, they may direct that the authority be dissolved. In addition, whenever a board of commissioners of a county which is a member of an authority determines that the authority is not operating in the best health interests of that county, it may withdraw from the authority. Dissolution of an authority or withdrawal from the authority by a county shall be effective only at the end of the fiscal year in which the action of dissolution or withdrawal transpired.

(b) Notwithstanding the provisions of subsection (a) of this section, no public health authority shall be dissolved without prior written notification to the Department.

(c) Any budgetary surplus available to a public health authority at the time of its dissolution shall be distributed to those counties comprising the authority on the same pro rata basis that the counties appropriated and contributed funds to the authority's budget during the current fiscal year. Distribution to the counties shall be determined on the basis of an audit of the financial record of the authority. The public health authority board shall select a certified public accountant or an accountant who is subsequently certified by the Local Government Commission to conduct the audit. The audit shall be performed in accordance with G.S. 159-34. The same method of distribution of funds described above shall apply when one or more counties of an authority withdraw from the authority.

(d) Upon dissolution or withdrawal, all rules adopted by the board continue in effect until amended or repealed by the new authority board or boards of health.

"§ 130A-45.3. Powers and duties of authority board.

(a) A public health authority shall have all the powers necessary or convenient to carry out the purposes of this Part, including the following powers to:

- (1) Protect and promote the public health. The board shall have the authority to adopt rules necessary for that purpose.
- (2) Construct, equip, operate, and maintain public health facilities.
- (3) Use property owned or controlled by the authority.
- (4) Acquire real or personal property, including existing public health facilities, by purchase, grant, gift, devise, lease or, with the permission of the county commissioners, condemnation.
- (5) Establish a fee schedule for services received from public health facilities and make services available regardless of ability to pay.

- (6) Appoint a public health authority director to serve at the pleasure of the authority board.
 - (7) Establish a salary plan which shall set the salaries for employees of the area authority.
 - (8) To adopt and enforce a professional reimbursement policy which may include the following provisions: (i) require that fees for the provision of services received directly under the supervision of the public health authority shall be paid to the authority, (ii) prohibit employees of the public health authority from providing services on a private basis which require the use of the resources and facilities of the public health authority, and (iii) provide that employees may not accept dual compensation and dual employment unless they have the written permission of the public health authority director.
 - (9) Delegate to its agents or employees any powers or duties as it may deem appropriate.
 - (10) Employ its own counsel and legal staff.
 - (11) Adopt, amend, and repeal bylaws for the conduct of its business.
 - (12) Enter into contracts for necessary supplies, equipment, or services for the operation of its business.
 - (13) Act as an agent for the federal, State, or local government in connection with the acquisition, construction, operation, or management of a public health facility, or any part thereof.
 - (14) Insure the property or the operations of the authority against risks as the authority may deem advisable.
 - (15) Sue and be sued.
 - (16) Accept donations or money, personal property, or real estate for the benefit of the authority and to take title to the same from any person, firm, corporation, or society.
 - (17) Appoint advisory boards, committees, and councils composed of qualified and interested residents of the authority service area to study, interpret, and advise the public health authority board.
- (b) A public health authority shall have the power to establish and operate health care networks and may contract with or enter into any arrangement with other public health authorities or local health departments of this or other states, federal, or other public agencies, or with any person, private organization, or nonprofit corporation or association for the provision of public health services, including managed health care activities; provided, however, that for the purposes of this subsection only, a public health authority shall be permitted to and shall comply with the requirements of Article 67 of Chapter 58 of the General Statutes to the extent that such requirements apply to the activities undertaken by the public health authority pursuant to this subsection. The public health authority may pay for or contribute its share of the cost of any such contract or arrangement from revenues available for these purposes, including revenues arising from the provision of public health services.
- (c) A public health authority may lease any public health facility, or part, to a nonprofit association on terms and conditions consistent with the purposes of this Part. The authority will determine the length of the lease.

No lease executed under this subsection shall be deemed to convey a freehold interest.

(d) A public health authority shall neither sell nor convey any rights of ownership the county has in any public health facility, including the buildings, land, and equipment associated with the facility, to any corporation or other business entity operated for profit, except that nothing herein shall prohibit the sale of surplus buildings, surplus land, or surplus equipment by an authority to any corporation or other business entity operated for profit. For purposes of this subsection, 'surplus' means any building, land, or equipment which is not required for use in the delivery of public health care services by a public health facility at the time of the sale or conveyance of ownership rights.

(e) A public health authority may lease any public health facility, or part, to any corporation, foreign or domestic, authorized to do business in North Carolina on terms and conditions consistent with the purposes of this Part and with G.S. 160A-272.

(f) A public health authority may exercise any or all of the powers conferred upon it by this Part, either generally or with respect to any specific public health facility or facilities, through or by designated agents, including any corporation or corporations which are or shall be formed under the laws of this State.

(g) An authority may contract to insure itself and any of its board members, agents, or employees against liability for wrongful death or negligent or intentional damage to person or property or against absolute liability for damage to person or property caused by an act or omission of the authority or of any of its board members, agents, or employees when acting within the scope of their authority and the course of their employment. The board shall determine what liabilities and what members, agents, and employees shall be covered by any insurance purchased pursuant to this subsection.

Purchase of insurance pursuant to this subsection waives the authority's governmental immunity, to the extent of insurance coverage, for any act or omission occurring in the exercise of a governmental function. Participation in a local government risk pool pursuant to Article 23 of Chapter 58 of the General Statutes shall be deemed to be the purchase of insurance for the purposes of this section. By entering into an insurance contract with the authority, an insurer waives any defense based upon the governmental immunity of the authority.

(h) If an authority has waived its governmental immunity pursuant to subsection (g) of this section, any person, or in the event of death, their personal representative, sustaining damages as a result of an act or omission of the authority or any of its board members, agents, or employees, occurring in the exercise of a governmental function, may sue the authority for recovery of damages. To the extent of the coverage of insurance purchased pursuant to subsection (g) of this section, governmental immunity may not be a defense to the action. Otherwise, however, the authority has all defenses available to private litigants in any action brought pursuant to this section without restriction, limitation, or other effect, whether the defense arises from common law or by virtue of a statute.

Despite the purchase of insurance as authorized by subsection (g) of this section, the liability of an authority for acts or omissions occurring in the exercise of governmental functions does not attach unless the plaintiff waives the right to have all issues of law or fact relating to insurance in the action determined by a jury. The judge shall hear and determine these issues without resort to a jury, and the jury shall be absent during any motion, argument, testimony, or announcement of findings of fact or conclusions of law relating to these issues unless the defendant requests a jury trial on them.

"§ 130A-45.4. Appointment of a public health authority director.

(a) A public health authority board, after consulting with the appropriate county board or boards of commissioners, shall appoint a public health authority director.

(b) All persons who are appointed to the position of public health authority director must possess minimum education and experience requirements for that position, as follows:

- (1) A medical doctorate; or
- (2) A masters degree in Public Health Administration, and at least one year of employment experience in health programs or health services; or
- (3) A masters degree in a public health discipline other than public health administration, and at least three years of employment experience in health programs or health services; or
- (4) A masters degree in public administration, and at least two years of experience in health programs or health services; or
- (5) A masters degree in a field related to public health, and at least three years of experience in health programs or health services; or
- (6) A bachelors degree in public health administration or public administration and at least three years of experience in health programs or health services.

(c) Before appointing a person to the position of public health authority director under subdivision (a)(5) of this section, the authority board shall forward the application and other pertinent materials of such candidate to the State Health Director. If the State Health Director determines that the candidate's masters degree is in a field not related to public health, the State Health Director shall so notify the authority board in writing within 15 days of the State Health Director's receipt of the application and materials, and such candidate shall be deemed not to meet the education requirements of subdivision (a)(5) of this section. If the State Health Director fails to act upon the application within 15 days of receipt of the application and materials from the authority board, the application shall be deemed approved with respect to the education requirements of subdivision (a)(5) of this section, and the authority board may proceed with the appointment process.

(d) The State Health Director shall review requests of educational institutions to determine whether a particular masters degree offered by the requesting institution is related to public health for the purposes of subdivision (a)(5) of this section. The State Health Director shall act upon such requests within 90 days of receipt of the request and pertinent materials from the institution, and shall notify the institution of its determination in

writing within the 90-day review period. If the State Health Director determines that an institution's particular masters degree is not related to public health, the State Health Director shall include the reasons therefor in his written determination to the institution.

(c) When an authority board fails to appoint a public health authority director within 60 days of the creation of a vacancy, the State Health Director may appoint an authority director to serve until the authority board appoints an authority director in accordance with this section.

"§ 130A-45.5. Powers and duties of a public health authority director.

(a) The public health authority director is an employee of the authority board and shall serve at the pleasure of the authority board.

(b) An authority health director shall perform public health duties prescribed by and under the supervision of the public health authority board and the Department and shall be employed full time in the field of public health.

(c) An authority health director shall have the following powers and duties:

- (1) To administer programs as directed by the public health authority board;
- (2) To enforce the rules of the public health authority board;
- (3) To investigate the causes of infectious, communicable, and other diseases;
- (4) To exercise quarantine authority and isolation authority pursuant to G.S. 130A-145;
- (5) To disseminate public health information and to promote the benefits of good health;
- (6) To advise local officials concerning public health matters;
- (7) To enforce the immunization requirements of Part 2 of Article 7 of this Chapter;
- (8) To examine and investigate cases of venereal disease pursuant to Parts 3 and 4 of Article 6 of this Chapter;
- (9) To examine and investigate cases of tuberculosis pursuant to Part 5 of Article 6 of this Chapter;
- (10) To examine, investigate, and control rabies pursuant to Part 6 of Article 6 of this Chapter;
- (11) To abate public health nuisances and imminent hazards pursuant to G.S. 130A-19 and G.S. 130A-20; and
- (12) To employ, discipline, and dismiss employees of the public health authority.

(d) Authority conferred upon a public health authority director may be exercised only within the county or counties comprising the public health authority.

"§ 130A-45.6. Boundaries of the authority.

A public health authority may provide or contract to provide public health services and to acquire, construct, establish, enlarge, improve, maintain, own, or operate, and contract for the operation of any public health facilities outside the territorial limits, within reasonable limitation, of the county or counties creating the authority, but in no case shall a public health authority be held liable for damages to those outside the territorial limits of the county

or counties creating the authority for failure to provide any public health service.

"§ 130A-45.7. Medical review committee.

(a) A member of a duly appointed medical review committee who acts without malice or fraud shall not be subject to liability for damages in any civil action on account of any act, statement, or proceeding undertaken, made, or performed within the scope of the functions of the committee.

(b) The proceedings of a medical review committee, the records and materials it produces and the materials it considers shall be confidential and not considered public records within the meaning of G.S. 132-1, "Public records" defined', and shall not be subject to discovery or introduction into evidence in any civil action against a public health authority or a provider of professional health services which results from matters which are the subject of evaluation and review by the committee. No person who was in attendance at a meeting of the committee shall be required to testify in any civil action as to any evidence or other matters produced or presented during the proceedings of the committee or as to any findings, recommendations, evaluations, opinions, or other actions of the committee or its members. However, information, documents, or records otherwise available are not immune from discovery or use in a civil action merely because they were presented during proceedings of the committee. A member of the committee or a person who testifies before the committee may testify in a civil action but cannot be asked about his testimony before the committee or any opinions formed as a result of the committee hearings.

"§ 130A-45.8. Confidentiality of patient information.

(a) Medical records compiled and maintained by public health authorities in connection with the admission, treatment, and discharge of individual patients are not public records as defined by Chapter 132 of the General Statutes.

(b) Charges, accounts, credit histories, and other personal financial records compiled and maintained by public health authorities in connection with the admission, treatment, and discharge of individual patients are not public records as defined by Chapter 132 of the General Statutes.

"§ 130A-45.9. Confidentiality of personnel information.

(a) Except as provided in subsection (b) of this section, the personnel files of employees or former employees and the files of applicants for employment maintained by a public health authority are not public records as defined by Chapter 132 of the General Statutes.

(b) The following information with respect to each employee of a public health authority is a matter of public record: name; age; date of original employment or appointment; beginning and ending dates, position title, position descriptions, and total compensation of current and former positions; and date of the most recent promotion, demotion, transfer, suspension, separation, or other change in position classification. In addition, the following information with respect to each licensed medical provider employed by or having privileges to practice in a public health facility shall be a matter of public record: educational history and qualifications, date and jurisdiction of original and current licensure; and

information relating to medical board certifications or other qualifications of medical specialists.

(c) Information regarding the qualifications, competence, performance, character, fitness, or conditions of appointment of an independent contractor who provides health care services under a contract with a public health authority is not a public record as defined by Chapter 132 of the General Statutes. Information regarding a hearing or investigation of a complaint, charge, or grievance by or against an independent contractor who provides health care services under a contract with a public health authority is not a public record as defined by Chapter 132 of the General Statutes. Final action making an appointment or discharge or removal by a public health authority having final authority for the appointment or discharge or removal shall be taken in an open meeting, unless otherwise exempted by law. The following information with respect to each independent contractor of health care services of a public health authority is a matter of public record: name; age; date of original contract; beginning and ending dates; position title; position descriptions; and total compensation of current and former positions; and the date of the most recent promotion, demotion, transfer, suspension, separation, or other change in position classification.

"§ 130A-45.10. Confidentiality of credentialing information.

Information acquired by a public health authority or by persons acting for or on behalf of a public health authority in connection with the credentialing and peer review of persons having or applying for privileges to practice in a public health facility is confidential and is not a public record under Chapter 132 of the General Statutes; provided that information otherwise available to the public shall not become confidential merely because it was acquired by the authority or by persons acting for or on behalf of the authority.

"§ 130A-45.11. Confidentiality of competitive health care information.

Information relating to competitive health care activities by or on behalf of public health authorities shall be confidential and not a public record under Chapter 132 of the General Statutes; provided that any contract entered into by or on behalf of a public health authority shall be a public record unless otherwise exempted by law."

Section 2. (a) G.S. 130A-2(4) reads as rewritten:

"(4) 'Local board of health' means a district board of health or a public health authority board or a county board of health."

(b) G.S. 130A-2(5) reads as rewritten:

"(5) 'Local health department' means a district health department or a public health authority or a county health department."

Section 3. G.S. 105-164.14(c)(9) reads as written:

"(9) A ~~district health department~~, district health department, or a public health authority created pursuant to Part 1A of Article 2 of Chapter 130A of the General Statutes."

Section 4. G.S. 128-37 reads as rewritten:

"§ 128-37. Membership of employees of ~~district health departments~~, ~~district health departments~~ or public health authorities.

Under such rules and regulations as the Board of Trustees shall establish and promulgate, the boards of county commissioners of any group of counties composing a district health department, or the governing board of

any public health authority, or the board of county commissioners of any county as to county boards of health, or the governing authorities of any county and/or city as to city-county boards of health, may elect that employees of such health departments may be members of the North Carolina Local Governmental Employees' Retirement System to the extent of that part of their compensation paid by the various counties composing said district health department."

Section 5. G.S. 153A-77.1 reads as rewritten:

"§ 153A-77.1. *Single portal of entry.*

A county may develop for human services a single portal of entry, a consolidated case management system, and a common data base; provided that if the county is part of a district health department or multicounty public health authority or a ~~multi-county~~ multicounty area mental health, developmental disabilities, and substance abuse authority, such action must be approved by the district board of health or public health authority board or the area mental health, developmental disabilities, and substance abuse board to affect any matter within the jurisdiction of that board. Nothing in this section shall be construed to abrogate a patient's right to confidentiality as provided by law."

Section 6. G.S. 153A-149(13) reads as rewritten:

"(13) Health. -- To provide for the county's share of maintaining and administering services offered by or through the ~~county or district local health department.~~"

Section 7. G.S. 106-266.17 reads as rewritten:

"§ 106-266.17. *Marketing agreements not to be deemed illegal or in restraint of trade; conflicting laws.*

The making of marketing agreements between producers' cooperative marketing associations and distributors and producer-distributors under the provisions of this Article shall not be deemed a combination in restraint of trade or an illegal monopoly, or an attempt to lessen competition or fix prices arbitrarily nor shall the marketing contract or agreements between the association and the distributors and producer-distributors, or any agreements authorized in this Article, be considered illegal or in restraint of trade. All laws and clauses of laws in conflict with the provisions of this Article are hereby repealed to the extent necessary for the full operation of this Article. No provisions of this Article shall be deemed in conflict with Articles 28 and 28A of Chapter 106 of the General Statutes. No provisions of this Article shall be deemed in conflict with the authority granted to ~~county, city-county and district local~~ boards of health by G.S. 130-19, 130-20, 130-66, to make and enforce rules and regulations governing milk sanitation or with the authority granted to the Department of Human Resources by G.S. 130-3 to make sanitary inquiries and investigations."

Section 8. G.S. 88-28.1 reads as rewritten:

"§ 88-28.1. *Restraining orders against persons engaging in illegal practices.*

If it is found that any licensed cosmetologist, cosmetic art shop, or other person subject to the provisions of this Chapter is violating any rules and regulations adopted by the State Board of Cosmetic Art Examiners or any provisions of G.S. 88-28, then the Department of Human Resources, any ~~county or district local~~ health director, or the State Board of Cosmetic Art

Examiners shall give notice to the person of the violation and apply to the superior court for injunctive relief to restrain such person from continuing such illegal practices. If, upon such application, it shall appear to the court that such person has violated and/or is violating any of the said rules and regulations or any provisions of Chapter 88, section 28, of the General Statutes of North Carolina G.S. 88-28, the court may issue an order restraining any further violations thereof. All such actions for injunctive relief shall be governed by the provisions of Article 37 of Chapter 1 of the General Statutes: Provided, such injunctive relief may be granted regardless of whether criminal prosecution has been or may be instituted under any of the provisions of this Chapter. Actions under this section shall be commenced in the county in which the respondent resides or has his principal place of business or in which the alleged acts occurred."

Section 9. G.S. 143-215.7 reads as rewritten:

"§ 143-215.7. *Effect on laws applicable to public water supplies and the sanitary disposal of sewage.*

This Article shall not be construed as amending, repealing, or in any manner abridging or interfering with the provisions of Article 10 of Chapter 130A of the General Statutes relating to the control of public water supplies; nor shall the provisions of this Article be construed as being applicable to or in anywise affecting the authority of the Department to control the sanitary disposal of sewage as provided in Article 11 of Chapter 130A of the General Statutes, or as affecting the powers, duties and authority of city, county, ~~county-city and district~~ local health departments ~~usually referred to as local health departments~~ or as affecting the charter powers, or other lawful authority of municipal corporations, to pass ordinances in regard to sewage disposal."

Section 10. G.S. 130A-140 reads as rewritten:

"§ 130A-140. *Local health directors to report.*

A local health director shall report to the Department all cases of diseases or conditions or laboratory findings of residents of the jurisdiction of the local health department which are reported to the local health director pursuant to this Article. A local health director shall report all other cases and laboratory findings reported pursuant to this Article to the local health director of the ~~county or district~~ county, district, or authority where the person with the reportable disease or condition or laboratory finding resides."

Section 11. G.S. 120-196 reads as rewritten:

"§ 120-196. *(See editor's note) Commission duties.*

The Commission shall study the availability and accessibility of public health services to all citizens throughout the State. In conducting the study the Commission shall:

- (1) Determine whether the public health services currently available in each ~~county or district~~ local health department conform to the mission and essential services established under G.S. 130A-1.1;
- (2) Study the workforce needs of each ~~county or district~~ health local department, including salary levels, professional credentials, and continuing education requirements, and determine the impact that shortages of public health professional personnel have on the

delivery of public health services in ~~county and district~~ local health departments;

- (3) Review the status and needs of local health departments relative to facilities, and the need for the development of minimum standards governing the provision and maintenance of these facilities;
- (4) Propose a long-range plan for funding the public health system, which plan shall include a review and evaluation of the current structure and financing of public health in North Carolina and any other recommendations the Commission deems appropriate based on its study activities;
- (5) Conduct any other studies or evaluations the Commission considers necessary to effectuate its purpose; and
- (6) Study the capacity of small counties to meet the core public health functions mandated by current State and federal law. The Commission shall consider whether the current ~~county and district~~ local health departments should be organized into a network of larger multidistrict community administrative units. In making its recommendations on this study, the Commission shall consider whether the State should establish minimum populations for local health departments, and if so, shall recommend the number of and configuration for these multicounty administrative units and shall recommend a series of incentives to ease county transition into these new arrangements."

Section 12. Any county which, on or prior to July 1, 1997, established a hospital authority board composed of no more than seven members under the provisions of Part B of Article 2 of Chapter 131E of the General Statutes may, by resolution adopted by its board of county commissioners and with the approval of the State Health Director, assign that authority board the power, duties, and responsibilities to provide public health services as outlined in G.S. 130A-1.1. Thereafter, such authority board shall act as the local board of health for the county together with such additional powers, duties, and authority assigned to it by the board of county commissioners.

Section 13. This act becomes effective January 1, 1998, and applies to contracts and agreements entered into on or after that date.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law upon approval of the Governor at 4:32 p.m. on the 11th day of September, 1997.

S.B. 853

CHAPTER 503

AN ACT AUTHORIZING THE SECRETARY OF THE DEPARTMENT OF REVENUE TO APPOINT EMPLOYEES OF THE DEPARTMENT AS REVENUE LAW ENFORCEMENT AGENTS TO ENFORCE THE EXCISE TAXES ON UNAUTHORIZED SUBSTANCES AND THE CRIMINAL PROVISIONS OF THE REVENUE LAWS.

The General Assembly of North Carolina enacts:

Section 1. Article 9 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-236.1. Enforcement of revenue laws by revenue law enforcement agents."

(a) General. -- The Secretary may appoint employees of the Criminal Investigations Division to serve as revenue law enforcement officers having the responsibility and subject-matter jurisdiction to enforce the felony tax violations in G.S. 105-236 and to enforce any of the following criminal offenses when they involve a tax imposed under Chapter 105 of the General Statutes: G.S. 14-91 (Embezzlement of State Property), G.S. 14-92 (Embezzlement of Funds), G.S. 14-100 (Obtaining Property By False Pretenses), G.S. 14-119 (Forgery), and G.S. 14-120 (Uttering Forged Paper).

The Secretary may appoint employees of the Unauthorized Substances Tax Division to serve as revenue law enforcement officers having the responsibility and subject-matter jurisdiction to enforce the excise tax on unauthorized substances imposed by Article 2D of this Chapter. To serve as a revenue law enforcement officer, an employee must be certified as a criminal justice officer under Chapter 17C of the General Statutes.

(b) Authority. -- A revenue law enforcement officer is a State officer with jurisdiction throughout the State within the officer's subject-matter jurisdiction. A revenue law enforcement officer may serve and execute notices, orders, warrants, or demands issued by the Secretary or the General Court of Justice in connection with the enforcement of the officer's subject-matter jurisdiction. A revenue law enforcement officer has the full powers of arrest as provided by G.S. 15A-401 while executing the notices, orders, warrants, or demands."

Section 2. G.S. 17C-2 reads as rewritten:

"§ 17C-2. Definitions.

Unless the context clearly otherwise requires, the following definitions apply in this Chapter:

- (a) "Commission" means the (1) Commission. -- The North Carolina Criminal Justice Education and Training Standards Commission; Commission.
- (b) "Criminal justice agencies" means the (2) Criminal justice agencies. -- The State and local law-enforcement agencies, the State correctional agencies, other correctional agencies maintained by local governments, and the juvenile justice agencies, but shall not include deputy sheriffs, special deputy sheriffs, sheriffs' jailers, or other sheriffs' department personnel governed by the provisions of Chapter 17E of these General Statutes; Statutes.
- (c) "Criminal justice officer(s)" means and incorporates the (3) Criminal justice officers. -- The administrative and subordinate personnel of all the departments, agencies, units or entities comprising the "criminal justice agencies," as defined in subsection (b), criminal justice agencies who are sworn law-enforcement officers, both State and local, with the power of arrest; revenue law enforcement officers; State correctional officers; State probation/parole officers; officers, supervisory and

administrative personnel of local confinement facilities; State youth services officers; State probation/parole intake officers; State probation/parole officers-surveillance; State probation/parole intensive officers; and State parole case analysts.

- (d) ~~"Entry level" means the~~ (4) Entry level. -- The initial appointment or employment of any person by a criminal justice agency, or any appointment or employment of a person previously employed by a criminal justice agency who has not been employed by a criminal justice agency for the 12-month period preceding this appointment or employment, or any appointment or employment of a previously certified criminal justice officer to a position which requires a different type of certification."

Section 3. G.S. 143-166.13(a) is amended by adding a new subdivision to read:

"(18) Sworn State Law-Enforcement Officers with the power of arrest, Department of Revenue."

Section 4. Of the funds appropriated from the General Fund to the Department of Revenue for operating expenses, the sum of sixty-seven thousand five hundred three dollars (\$67,503) shall be used in the 1997-98 fiscal year to implement Sections 1 through 3 of this act.

Section 5. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law upon approval of the Governor at 4:35 p.m. on the 11th day of September, 1997.

S.B. 992

CHAPTER 504

AN ACT AMENDING THE LAWS RELATED TO THE NORTH CAROLINA BOXING COMMISSION AND SUNSETTING THIS ACT ON AUGUST 1, 1998.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-651 reads as rewritten:

"§ 143-651. Definitions.

As used in this Article: The following definitions apply in this Article:

- (1) 'Amateur' means a Amateur. -- A person who is not receiving or competing for and has never received or competed for any purse or other article or thing of value for participating in a match.
- (2) 'Announcer' means any Announcer. -- Any person who engages in the act of announcing a boxing match.
- (3) 'Boxer' means any Boxer. -- Any person who engages as a participant in a boxing match.
- (4) 'Boxing match' means a Boxing match. -- A match where the participants engage in the use of full contact boxing techniques (using the fist only), and where the object of a match is to win by decision, knockout (KO), or ~~technical knockout (TKO), and~~

- ~~shall include kickboxing matches as defined in this section, technical knockout (TKO).~~
- (5) ~~'Commission' means the~~ Commission. -- The North Carolina State Boxing Commission.
 - (6) ~~'Contest' means a Contest.~~ -- A boxing match in which the participants strive ~~earnestly~~ to win.
 - (7) ~~'Contestant' means any~~ Contestant. -- Any person who engages as a participant in a boxing match.
 - (8) ~~'Exhibition' means a~~ Exhibition. -- A boxing match where the participants display their boxing skills and technique without necessarily striving to win.
 - (9) ~~'Judge' means a~~ Judge. -- A person who has a vote in determining the winner of any match or contest.
 - (10) ~~'Kickboxer' means any~~ Kickboxer. -- Any person who engages as a participant in a kickboxing match.
 - (11) ~~'Kickboxing match' means a~~ Kickboxing match. -- A match in which the participants engage in full contact martial arts fighting techniques using the hands and the feet, and where the object of the match is to win by decision, knockout (KO), or technical knockout (TKO).
 - (12) ~~'Licensee' means any~~ Licensee. -- Any person, club, corporation, organization, or association to whom a license has been issued pursuant to the provisions of this Article.
 - (13) ~~'Manager' means any person, including an officer of a corporate manager and a managing partner of a partnership manager,~~ Manager. -- Any person who controls or administers the boxing affairs of any contestant, and who:
 - a. By contract, agreement, or other arrangement with any person undertakes or has undertaken to represent in any way the interest of the contestant in any professional boxing contest in which the boxer is to participate as a contestant, and is entitled under that contract, agreement, or arrangement to receive monetary or other compensation for his services, without regard to the sources of the ~~compensation, except that the compensation.~~ The term 'manager' shall not be construed to mean any attorney licensed to practice in this State whose participation in the activities is restricted solely to his representing the interests of a professional boxer as ~~his client;~~ a client.
 - b. Directs or controls the professional ~~boxing activities of any professional boxer; or boxer.~~
 - c. Receives or is entitled to receive a percentage of the gross purse or gross income of any professional boxing contest.
 - (14) ~~'Match' means any~~ Match. -- Any boxing or kickboxing contest or exhibition, and includes any event, engagement, sparring or practice session, show or program where the public is admitted and in which there is intended to be physical contact, whether an exhibition or contest. This definition does not include training or practice sessions when no admission is charged.

- (15) ~~'Matchmaker' means a Matchmaker.~~ -- A person through whom matches are arranged for participants and who otherwise assists participants in procuring engagement dates for boxing.
- (16) ~~'Natural person' means an Natural person.~~ -- An individual.
- (17) ~~'Participant' means any Participant.~~ -- Any person who engages in a match or exhibition and performs as a boxer.
- (18) ~~'Person' means an Person.~~ -- An individual, group of individuals, business, corporation, limited liability company, partnership, or any other individual or collective entity.
- (19) ~~'Physician' means an Physician.~~ -- An individual licensed to practice medicine in this State.
- (20) ~~'Professional' means any person who has received or competed for any purse or other article or thing of value for participating in a boxing match.~~ Professional. -- Any person who is licensed as a professional boxer under the federal Professional Boxing Safety Act of 1996.
- (21) ~~'Promoter' means any person, including an officer of a corporate promoter and a managing partner of a partnership promoter.~~ Promoter. -- Any person who produces, arranges, stages, holds, or gives any match in North Carolina involving a professional participant.
- (22) ~~'Referee' means the Referee.~~ -- The official who shall enter and remain in the ring for the duration of a match and shall enforce the rules and maintain order in the ring.
- (23) ~~'Ring official' means any Ring official.~~ -- Any person who performs an official function for the duration of a match.
- (23a) Sanctioned amateur. -- A person who competes in a sanctioned amateur match.
- (23b) Sanctioned amateur match. -- Any boxing or kickboxing match regulated by an amateur sports organization that has been recognized and approved by the North Carolina Boxing Commission.
- (24) ~~'Second' means any Second.~~ -- Any person who will work or be present in the corner of a participant for the duration of a match.
- (25) ~~'Timekeeper' means any Timekeeper.~~ -- Any person who will operate the clock or watch for the duration of a match for the purpose of keeping the official time of the match.
- (25a) Toughman contestant. -- Any person who competes in a toughman event.
- (25b) Toughman event. -- An elimination program of matches in which (i) the contestants are not professional boxers, (ii) the finalist receives a purse or other article of value, (iii) the participants engage in the use of full contact boxing techniques, and (iv) the object of each match is to win by decision, knockout (KO), or technical knockout (TKO).
- (26) ~~'Ultimate warrior match' means a Ultimate warrior match.~~ -- A match where the participants use any combination of boxing, kicking, wrestling, hitting, punching, or other combative,

contact techniques and which combination of techniques is not specifically authorized by and conducted pursuant to this Article."

Section 2. G.S. 143-652 reads as rewritten:

"§ 143-652. *State Boxing Commission.*

(a) Creation. -- The North Carolina State Boxing Commission is created within the Department of the Secretary of State to regulate in North Carolina live boxing and kickboxing matches, whether professional or professional, amateur, sanctioned amateur, or toughman events, in North Carolina, in which admission is charged for viewing, or the contestants compete for a purse or prize of value greater than twenty-five dollars (\$25.00). The Commission shall consist of ~~five~~ six voting members and two nonvoting advisory members. All the members shall be residents of North Carolina, Carolina and shall meet requirements for membership under the Professional Boxing Safety Act of 1996. The members shall be appointed as follows:

- (1) One voting member shall be appointed by the Governor for an initial term of two years.
- (2) One voting member shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate for an initial term of one year, in accordance with G.S. 120-121.
- (3) One voting member shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives for an initial term of one year.
- (4) Two voting members shall be appointed by the Secretary of State. One shall serve for an initial term of three years, and the other shall serve for an initial term of two years.
- (5) One member shall be appointed by the Tribal Council of the Eastern Band of the Cherokee for an initial term of three years.
- (~~5~~) (6) One nonvoting advisory member shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives for an initial term of one year, in accordance with G.S. 120-121, from nominations made by the North Carolina Medical Society, which shall nominate two licensed physicians for the position.
- (~~6~~) (7) One nonvoting advisory member shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate for an initial term of one year, in accordance with G.S. 120-121, from nominations made by the North Carolina Medical Society, which shall nominate two licensed physicians for the position.

The member appointed pursuant to subdivision (5) of subsection (a) of this section may serve on the Commission only if an agreement exists and remains in effect between the Tribal Council of the Eastern Band of the Cherokee and the Commission authorizing the Commission to regulate professional boxing matches within the Cherokee Indian Reservation as provided by the Professional Boxing Safety Act of 1996.

The two nonvoting advisory members appointed pursuant to subdivisions (6) and (7) of subsection (a) of this section shall advise the Commission on matters concerning the health and physical condition of boxers and health issues relating to the conduct of exhibitions and boxing matches. They may prepare and submit to the Commission for its consideration and approval any rules that in their judgment will safeguard the physical welfare of all participants engaged in boxing.

Terms for all members of the Commission except for the initial appointments shall be for three years.

The Secretary of State shall designate which member of the Commission is to serve as chair. A member of the Commission may be removed from office by the Secretary of State for cause. Each member before entering upon the duties of a member shall take and subscribe an oath to perform the duties of the office faithfully, impartially, and justly to the best of the member's ability. A record of these oaths shall be filed in the Department of the Secretary of State.

(b) Vacancies. -- Members shall serve until their successors are appointed and have been qualified. Any vacancy in the membership of the Commission shall be filled in the same manner as the original appointment. Vacancies for members appointed by the General Assembly shall be filled in accordance with G.S. 120-122. A vacancy in the membership of the Commission other than by expiration of term shall be filled for the unexpired term only.

(c) Meetings. -- Meetings of the Commission shall be called by the chair or by any two members of the Commission, and meetings shall be held at least quarterly. Any three voting members of the Commission shall constitute a quorum at any meeting. Action may be taken and motions and resolutions adopted by the Commission at any meeting by the affirmative vote of a majority of the members of the Commission present at a meeting at which a quorum exists. Any or all members may participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all members participating may simultaneously hear each other during the meeting. A member participating in the meeting by this means is deemed to be present in person at the meeting.

(d) Rule-Making Authority of the Commission. -- The Commission shall have the exclusive authority to approve and issue rules for the regulation of the conduct, promotion, and performances of live boxing, boxing, kickboxing, sanctioned amateur, amateur, and toughman matches and exhibitions in this State. The rules shall be issued pursuant to the provisions of Chapter 150B of the General Statutes and may include, without limitation, the following subjects:

- (1) Requirements for issuance of licenses and permits required by this Article.
- (2) Regulation of ticket sales.
- (3) Physical requirements for contestants, including classification by weight and skill.
- (4) Supervision of matches and exhibitions by licensed physicians and referees.
- (5) Insurance and bonding requirements.

- (6) Compensation of participants and licensees.
- (7) Contracts and financial arrangements.
- (8) Prohibition of dishonest, unethical, and injurious practices.
- (9) Facilities.
- (10) Approval of sanctioning amateur sports organizations.
- (11) Procedures and requirements for compliance with the Professional Boxing Safety Act of 1996.

(e) Compensation. -- None of the members of the Commission shall receive compensation for serving on the Commission. However, members of the Commission may be reimbursed for their expenses in accordance with the provisions of Chapter 138 of the General Statutes.

(f) Staff Assistance. -- The Secretary of State shall hire a person to serve as Executive Director of the Commission and shall provide staff assistance to the Commission. Executive Director. The Executive Director may train and contract with independent contractors for the purpose of regulating and monitoring events, issuing licenses, collecting fees, and enforcing rules of the Commission. The Executive Director may initiate criminal background checks on persons requesting to work as independent contractors for the Commission or persons applying to be licensed by the Commission."

Section 3. G.S. 143-653 reads as rewritten:

"§ 143-653. *Ultimate warrior matches prohibited.*

Ultimate warrior matches, whether the participants are professionals or amateurs, are prohibited. No person shall promote, conduct, or engage in ultimate warrior matches. This section shall not preclude ~~boxing and kickboxing as regulated in this Article~~ or professional wrestling."

Section 4. G.S. 143-654 reads as rewritten:

"§ 143-654. *Licensing and permitting.*

(a) License and Permit Required. -- Except for sanctioned amateur matches, it is unlawful for any person to act in this State as an announcer, contestant, judge, manager, matchmaker, promoter, referee, timekeeper, or second unless the person is licensed to do so under this Article. It is unlawful for a promoter to present a match in this State, other than a sanctioned amateur match, unless the promoter has a permit issued under this Article to do so. The Commission has the exclusive authority to issue, deny, suspend, or revoke any license or permit provided for in this Article.

(b) License. -- A license issued under this Article must be renewed annually on or before January 1. All licenses issued under this Article shall be valid only during the calendar year in which they are issued, except contestant licenses shall be valid for one year from the date of issuance. A license for an announcer, contestant, judge, matchmaker, referee, timekeeper, or second shall be issued only to a natural person. A natural person shall not transfer or assign a license or change it into another name. A license for a manager or promoter may be issued to a corporation or partnership; provided, however, that all officers or partners shall submit an application for individual licensure, and only those officers or partners who are licensed shall be entitled to negotiate or sign contracts. The addition of a new officer or partner during the license period shall necessitate the filing of an application for individual licensure by the new officer or partner.

An applicant for a license shall file with the Commission the appropriate nonrefundable fee and any forms, documents, medical examinations, or exhibits the Commission may require in order to properly administer this Article. The information requested shall include the date of birth and social security number of each applicant as well as any other personal data necessary to positively identify the applicant and may include the requirement of verification of any documents the Commission deems appropriate. A person may not participate under a fictitious or assumed name in any match unless the person has first registered the name with the Commission.

(c) Surety Bond. -- An applicant for a promoter's license must submit, in addition to any other forms, documents, or ~~exhibits~~, exhibits requested by the Commission, a surety bond payable to the Commission for the benefit of any person injured or damaged by (i) the promoter's failure to comply with any provision of this Article or any rules adopted by the Commission or (ii) the promoter's failure to fulfill the obligations of any contract between or among licensees related to the holding of a boxing event. The surety bond shall be issued in an amount to be no less than five thousand dollars (\$5,000). The amount of the surety bond shall be negotiable upon the sole discretion of the Commission. All surety bonds shall be upon forms approved by the Secretary of State and supplied by the Commission.

(d) Permit. -- A permit issued to a promoter under this Article is valid for a single match. An applicant for a permit shall file with the Commission the appropriate nonrefundable fee and any forms or documents the Commission may require."

Section 5. G.S. 143-656 reads as rewritten:

"§ 143-656. *Contracts and financial arrangements.*

Any contract between a boxer and any other licensee licensees and any contract involving related to a boxing match or exhibition held or to be held in this State must meet the requirements of administrative rules as set forth by the Commission. Any contract which does not satisfy the requirements of the administrative rules shall be void and unenforceable. All contracts shall be in writing."

Section 6. G.S. 143-657 is repealed.

Section 7. Article 68 of Chapter 143 of the General Statutes is amended by adding the following new section:

"§ 143-657.1. *Sanctioned amateur matches.*

In addition to the other applicable provisions of this Article, a sanctioned amateur match shall be conducted pursuant to the rules of the sports organization sanctioning the boxing match or exhibition."

Section 8. G.S. 143-658 reads as rewritten:

"§ 143-658. *Violations.*

(a) Civil Penalties. -- The Commission Secretary of State may issue an order against a licensee or other person who willfully violates any provision of this Article, imposing a civil penalty of up to five thousand dollars (\$5,000) for a single violation or of up to twenty-five thousand dollars (\$25,000) for multiple violations in a single proceeding or a series of related proceedings. No order under this subsection may be entered without giving the licensee or other person 15 days' prior notice and an opportunity for a

contested case hearing conducted pursuant to Article 3 of Chapter 150B of the General Statutes.

(b) Criminal Penalties. -- A willful violation of any provision of this Article shall constitute a Class 2 misdemeanor. The Secretary of State may refer any available evidence concerning violations of this Article to the proper district attorney, who may, with or without such a reference, institute the appropriate criminal proceedings.

The attorneys employed by the Secretary of State shall be available to prosecute or assist in the prosecution of criminal cases when requested to do so by a district attorney and the Secretary of State approves.

(c) Injunction. -- Whenever it appears to the ~~Commission~~ Secretary of State that a person has engaged or is about to engage in an act or practice constituting a violation of any provision of this Article or any rule or order hereunder, the ~~Commission~~ Secretary of State may in its discretion bring an action in any court of competent jurisdiction to enjoin those acts or practices and to enforce compliance with this Article or any rule or order issued pursuant to this Article.

(d) Enforcement. -- For purposes of enforcing this Article, the Department of the Secretary of State's law enforcement agents have statewide jurisdiction. These law enforcement agents may assist local law enforcement agencies in their investigations and may initiate and carry out, in coordination with local law enforcement agencies, investigations of violations of this Article. These law enforcement agents have all the powers and authority of law enforcement officers when executing arrest warrants."

Section 9. Except as otherwise specified herein, this act is effective when it becomes law. This act expires August 1, 1998.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law upon approval of the Governor at 4:38 p.m. on the 28th day of September, 1997.

H.B. 1142

CHAPTER 505

AN ACT TO WAIVE TUITION FOR CHILDREN OR SPOUSES OF CERTAIN EMERGENCY WORKERS KILLED OR DISABLED IN THE LINE OF DUTY.

The General Assembly of North Carolina enacts:

Section 1. The title of Chapter 115B reads as rewritten:

"~~Tuition Waiver for Senior Citizens.~~ Waivers."

Section 2. G.S. 115B-1 reads as rewritten:

"§ 115B-1. ~~Definition.~~ Definitions.

~~As used in this Chapter, "tuition" shall mean the~~ The following definitions apply in this Chapter:

(1) Employer. -- The State of North Carolina and its departments, agencies, and institutions; or a county, city, town, or other political subdivision of the State.

(2) Firefighter or volunteer firefighter. -- The same as provided in G.S. 58-86-25 for 'eligible firemen'.

- (3) Law enforcement officer. -- An employee or volunteer of an employer who possesses the power of arrest, who has taken the law enforcement oath administered under the authority of the State as prescribed by G.S. 11-11, and who is certified as a law enforcement officer under the provisions of Chapter 17C of the General Statutes or certified as a deputy sheriff under the provisions of Chapter 17E of the General Statutes. 'Law enforcement officer' also means the sheriff of the county.
- (4) Permanently and totally disabled as a direct result of a traumatic injury sustained in the line of duty. -- A person: (i) who as a law enforcement officer, firefighter, volunteer firefighter, or rescue squad worker suffered a disabling injury while in active service or training for active service, (ii) who at the time of active service or training was a North Carolina resident, and (iii) who has been determined to be permanently and totally disabled for compensation purposes by the North Carolina Industrial Commission.
- (5) Rescue squad worker. -- The same as provided in G.S. 58-86-30 for 'eligible rescue squad worker'.
- (6) Survivor. -- Any person whose parent or spouse: (i) was a law enforcement officer, a firefighter, a volunteer firefighter, or a rescue squad worker, (ii) was killed while in active service or training for active service or died as a result of a service-connected disability, and (iii) at the time of active service or training was a North Carolina resident. The term does not include the widow or widower of a law enforcement officer, firefighter, volunteer firefighter, or a rescue squad worker if the widow or widower has remarried.
- (7) Tuition. -- The amount charged for registering for a credit hour of instruction and shall not be construed to mean any other fees or charges or costs of textbooks."

Section 3. G.S. 115B-2 reads as rewritten:

"§ 115B-2. Tuition waiver authorized.

State-supported institutions of higher education, community colleges, industrial education centers and technical institutes, shall permit ~~legal residents of North Carolina who have attained the age of 65~~ the following persons to attend classes for credit or noncredit purposes without the required payment of tuition; provided, however, that such persons meet admission and other standards deemed appropriate by the educational institution, and provided further that such persons shall be accepted by the constituent institutions of the University of North Carolina only on a spaces-available basis.

- (1) Legal residents of North Carolina who have attained the age of 65.
- (2) Any person who is the survivor of a law enforcement officer, firefighter, volunteer firefighter, or rescue squad worker killed as a direct result of a traumatic injury sustained in the line of duty.
- (3) The spouse of a law enforcement officer, firefighter, volunteer firefighter, or rescue squad worker who is permanently and totally disabled as a direct result of a traumatic injury sustained in the line of duty.

- (4) Any child, if the child is at least 17 years old but not yet 23 years old, whose parent is a law enforcement officer, firefighter, volunteer firefighter, or rescue squad worker who is permanently and totally disabled as a direct result of a traumatic injury sustained in the line of duty. However, a child's eligibility for a waiver of tuition under this Chapter shall not exceed: (i) 48 months, if the child is seeking a baccalaureate degree, or (ii) if the child is not seeking a baccalaureate degree, the number of months required to complete the educational program to which the child is applying."

Section 4. G.S. 115B-5 reads as rewritten:

"§ 115B-5. *Proof of eligibility.*

(a) The officials of such institutions charged with administration of this Chapter may require such proof as they deem necessary to insure that the a person applying to the institution as a senior citizen is eligible for the benefits provided by this Chapter.

(b) The officials of the institutions charged with administration of this Chapter shall require the following proof to insure that a person applying to the institution and who requests a tuition waiver under G.S. 115B-2(2), (3), or (4) is eligible for the benefits provided by this Chapter.

(1) The parent-child relationship shall be verified by a birth certificate, legal adoption papers, or other documentary evidence deemed appropriate by the institution.

(2) The marital relationship shall be verified by a marriage certificate or other documentary evidence deemed appropriate by the institution.

(3) The cause of death of the law enforcement officer, firefighter, volunteer firefighter, or rescue squad worker shall be verified by certification from the records of the Department of State Treasurer, the appropriate city or county law enforcement agency that employed the deceased, the administrative agency for the fire department or fire protection district recognized for funding under the Department of State Auditor, or the administrative agency having jurisdiction over any paid firefighters of all counties and cities.

(4) The permanent and total disability shall be verified by documentation deemed necessary by the institution from the North Carolina Industrial Commission."

Section 5. Chapter 115B is amended by adding a new section to read:

"§ 115B-5A. *Student to be credited for scholarship value.*

If a person obtains a tuition waiver under G.S. 115B-2(2), (3), or (4) and the person also receives a cash scholarship paid or payable to the institution, from whatever source, the amount of the scholarship shall be applied to the credit of the person in the payment of incidental expenses of the person's attendance at the institution, and any balance, if the terms of the scholarship permit, shall be returned to the student."

Section 6. This act becomes effective October 1, 1997, and applies to deaths or disabilities occurring on or after that date.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law upon approval of the Governor at 9:35 a.m. on the 16th day of September, 1997.

S.B. 929

CHAPTER 506

AN ACT TO ENHANCE AND IMPROVE CHILD CARE IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

PART 1. ENHANCE AND IMPROVE CHILD CARE.

Section 1. The heading for Article 7, Chapter 110 of the General Statutes, reads as rewritten:

"ARTICLE 7.

Day-Care Child Care Facilities."

Section 2. G.S. 110-85 reads as rewritten:

"§ 110-85. *Legislative intent and purpose.*

The Recognizing the importance of the early years of life to a child's development, the General Assembly hereby declares its intent with respect to day the early care and education of children:

- (1) The State should protect the growing number of children who are placed in day-care child care facilities or in child-care arrangements when these children are under the supervision and in the care of persons other than their parents, grandparents, guardians or full-time custodians during the day, by ensuring that these facilities provide a physically safe and healthy environment where the developmental needs of these children are met and where these children are cared for by qualified persons of good moral character.
- (2) This protection should assure that such children are cared for by persons of good moral character, that their physical safety and moral environment are protected, and that the day-care resources conform to minimum standards relating to the health and safety of the children receiving day care.
- (3) This Achieving this level of protection and early education requires the following elements for a comprehensive approach: elements: mandatory licensing of day-care child care facilities under minimum standards; facilities; promotion of higher levels of day care than required for a license quality child care through the development of higher enhanced standards which operators may comply with on a voluntary basis; registration of child day care homes which are too small to be regulated through licensing; and a program of education to help operators improve their programs and to develop deepen public understanding of day-care child care needs and problems. issues."

Section 3. G.S. 110-86 reads as rewritten:

"§ 110-86. *Definitions.*

Unless the context or subject matter otherwise requires, the terms or phrases used in this Article shall be defined as follows:

- (1) Commission. The Child Day-Care Care Commission created under this Article.
- (2) Child day care. ~~Any child care~~ A program or arrangement wherein where three or more children less than 13 years old old, who do not reside where the care is provided, receive care away from their own home by on a regular basis of at least once per week for more than four hours but less than 24 hours per day from persons other than their parents, grandparents, aunts, uncles, brothers, sisters, first cousins, guardians or full-time custodians, or in the child's own home where other unrelated children are in care, or from persons not related to them by birth, marriage, or adoption. Child day care does not include seasonal recreational programs operated for less than four consecutive months in a year. Child day care also does not include arrangements that provide only drop-in or short-term child care for parents participating in activities that are not employment related and where the parents are on the premises or otherwise easily accessible, such as drop-in or short-term child care offered in health spas, bowling alleys, shopping malls, resort hotels, and churches. the following:
 - a. Arrangements operated in the home of any child receiving care if all of the children in care are related to each other and no more than two additional children are in care;
 - b. Recreational programs operated for less than four consecutive months in a year;
 - c. Specialized activities or instruction such as athletics, dance, art, music lessons, horseback riding, gymnastics, or organized clubs for children, such as Boy Scouts, Girl Scouts, 4-H groups, or boys and girls clubs;
 - d. Drop-in or short-term care provided while parents participate in activities that are not employment related and where the parents are on the premises or otherwise easily accessible, such as drop-in or short-term care provided in health spas, bowling alleys, shopping malls, resort hotels, or churches;
 - e. Public schools;
 - f. Nonpublic schools described in Part 2 of Article 39 of Chapter 115C of the General Statutes that are accredited by the Southern Association of Colleges and Schools and that operate a child care facility as defined in subdivision (3) of this section for less than six and one-half hours per day either on or off the school site;
 - g. Bible schools conducted during vacation periods;
 - h. Care provided by facilities licensed under Article 2 of Chapter 122C of the General Statutes;
 - i. Cooperative arrangements among parents to provide care for their own children as a convenience rather than for employment; and

j. Any child care program or arrangement consisting of two or more separate components, each of which operates for four hours or less per day with different children attending each component.

- (3) Child day care facility. Includes any child day care center centers, family child care homes, and any other or child care arrangement not excluded by G.S. 110-86(2), which that provides day child care for more than five children, not including the operator's own school-aged children, under the age of 13 years, on a regular basis of at least once per week for more than four hours but less than 24 hours per day, care, regardless of the time of day day, and regardless of whether the same or different children attend, wherever operated, and whether or not operated for profit. The following are not included: public schools; nonpublic schools described in Part 2 of Article 39 of Chapter 115C of the General Statutes and accredited by the Southern Association of Colleges and Schools, which regularly provide a course of grade school instruction and which do not provide child day care as defined in subdivision (2) of this section or operate a child day care facility as defined herein for children under five years of age for more than six and one-half hours per day either on or off the school site; summer camps having children in full-time residence; Bible schools conducted during vacation periods; facilities licensed under Article 2 of Chapter 122C of the General Statutes; and cooperative arrangements among parents to provide care for their own children as a convenience rather than for employment.

Child day care facilities are separated by capacity into the following categories which determine applicable requirements and standards as established by the Commission pursuant to G.S. 110-88:

Facility Type-

Large Home

Small Center

Medium Center

Large Center-

The Commission shall establish the maximum capacity for each of the four categories of facilities.

- a. A child care center is an arrangement where, at any one time, there are three or more preschool-age children or nine or more school-age children receiving child care.
- b. A family child care home is a child care arrangement located in a residence where, at any one time, more than two children, but less than nine children, receive child care.

- (4) Child day care home. Any day care program or child care arrangement wherein any person not excluded in G.S. 110-86(2) provides day care on a regular basis of at least once per week for more than four hours per day for more than two

~~children under 13 years of age, but not to exceed a maximum of eight children at any one time, wherever operated, and whether or not operated for profit. Of the children present at any one time, no more than five children shall be preschool-aged, as defined in rules adopted by the Commission. The four hour limit applies regardless of the time of day and regardless of whether the same or different children attend. Cooperative arrangements among parents to provide care for their own children as a convenience rather than for employment are not included.~~

~~To determine whether a child care arrangement is a child day care home, all children shall be counted except the operator's own school-aged children and school-aged children who reside at the location of the day care home.~~

- (4.1) Department. Department of Human Resources.
- (5) Repealed by Session Laws 1975, c. 879, s. 15.
- (6) License. A license permit issued by the Secretary to any day-care child care facility which meets the statutory standards established under this Article.
- (7) Operator. Includes the owner, director or other person having primary responsibility for operation of a child day care facility subject to licensing.
- (8) Secretary. The Secretary of the Department of Human Resources.
- (9) Lead teacher. An individual who is responsible for planning and implementing the daily program of activities for a group of children in a child care facility.
- (10) Child care administrator. A person who is responsible for the operation of a child care facility and is on-site on a regular basis."

Section 4. (a) G.S. 110-88 reads as rewritten:

"§ 110-88. *Powers and duties of the Commission.*

The Commission shall have the following powers and duties:

- (1) To develop policies and procedures for the issuance of a license to any child day care facility which that meets all applicable standards established under this Article.
- (1a) To adopt applicable rules and standards based upon the capacity of a child care facility.
- (2) To require inspections by and satisfactory written reports from representatives of local or State health agencies and fire and building inspection agencies and from representatives of the Department prior to the issuance of a license to any child day care facility. center.
- (2a) To require annually, inspections by and satisfactory written reports from representatives of local or State health agencies and fire inspection agencies after a license is issued.
- (3) To make rules establishing minimum and reasonable standards for the operation of child day care homes and the issuance of registration certificates. These rules shall establish minimum

~~standards of health and safety that will be required in child day care homes and will recognize the vital role that parents and guardians play in the monitoring of the care provided in child day care homes.~~

- (4) ~~Repealed by Session Laws 1975, c. 879, s. 15.~~
- (5) ~~To make adopt rules and develop policies for implementation of this Article, including procedures for application, approval, renewal annual compliance visits for centers, and revocation of licenses.~~
- (6) ~~To make adopt rules for the issuance of a provisional license that shall be in effect for no more than 12 consecutive months to a child day care facility and a provisional registration certificate to a child day care home that does not conform in every respect with the standards established in this Article and rules adopted by the Commission pursuant to this Article, provided that the Secretary finds that Article but that the operator is making a reasonable effort to conform to the standards, except that a provisional license or provisional registration certificate shall not be issued for more than 12 consecutive months and shall not be renewed, standards.~~
- (6a) ~~To make adopt rules for administrative action against a child day care facility or child day care home when the Secretary's investigations pursuant to G.S. 110-105(a)(3) or G.S. 110-105.1(a)(4) substantiate that child abuse or neglect did occur in the facility or home, facility. The rules shall provide for type types of sanction shall be determined by sanctions which shall depend upon the severity of the incident and the probability of reoccurrence. The administrative actions shall include rules shall also provide for written warnings and special provisional licenses or registration certificates, licenses.~~

~~A written warning may be issued which shall specify any corrective action to be taken by the operator. The Department shall make an unannounced visit within one month after issuance of the written warning to determine whether the corrective action has occurred. If the corrective action has not occurred, a special provisional license or registration certificate may be issued.~~

~~When a special provisional license or registration certificate is issued, it shall require specific corrective action. It shall be in effect for no more than six months from imposition and shall not be renewed, imposition. The special provisional license or registration certificate and the letter which clearly states the reasons for the special provisional status shall be posted where parents can see them. Under the terms of the special provisional license or registration, the facility or home shall not enroll any new children until notified by the Department that it is satisfied the abusive or neglectful situation no longer exists. The Department shall make an unannounced visit at least every eight weeks during the period the special provisional license or~~

~~registration certificate is in effect. Specific corrective action required by a written warning, special provisional license or special provisional registration certificate, or any other administrative penalty authorized by this Article may include the permanent removal from day care of the substantiated abuser or neglecter.~~

~~Nothing in this subdivision shall restrict the Secretary from using any other statutory or administrative remedies available.~~

- (7) ~~To develop and promulgate adopt voluntary enhanced program standards which reflect higher levels of day quality child care than required by the standards established by this Article, which will recognize better physical facilities, more qualified personnel, and higher quality programs. The Commission may adopt rules for the issuance of two grades of licenses: an "A" license for compliance with the provisions of the Article, and an "AA" license for those licensees meeting the voluntary higher standards promulgated by the Commission. the mandatory standards established by this Article. These enhanced program standards must address, at a minimum, staff/child ratios, staff qualifications, parent involvement, operational and personnel policies, developmentally appropriate curricula, and facility square footage.~~

- (8) ~~To develop a procedure by which the Department shall furnish those forms as may be required for implementation of this Article.~~

- (9) ~~Repealed by Session Laws 1985, c. 757, s. 156(66).~~

- (10) ~~To develop adopt rules for the issuance of a temporary license which shall expire in 90 days six months and which may be issued to the operator of a new facility center or to the operator of a previously licensed facility center when a change in ownership or location occurs.~~

- (11) ~~To develop adopt rules for the care of sick child care facilities which provide care for children in facilities and homes who are mildly sick.~~

- (12) ~~To adopt rules regulating the amount of time a child care administrator shall be on-site at a child care center."~~

(b) ~~The enhanced program standards adopted by the Commission pursuant to G.S. 110-88(7) shall expire July 1, 1999.~~

Section 5. G.S. 110-90 reads as rewritten:

"§ 110-90. Powers and duties of Secretary of Human Resources.

~~The Secretary of Human Resources shall have the following powers and duties under the policies and rules of the Commission:~~

- (1) ~~To administer the licensing program for child day care facilities and the registration system for child day care homes. facilities.~~
- (2) ~~To obtain and coordinate the necessary services from other State departments and units of local government which are necessary to implement the provisions of this Article.~~
- (3) ~~To employ the administrative personnel and staff as may be necessary to implement this Article where required services,~~

inspections or reports are not available from existing State agencies and units of local government.

- (4) To issue a rated license effective for one year to any child day care facility which meets the standards established by this Article. The rating shall be based on program standards, education levels of staff, and compliance history of the child care facility.
- (5) ~~To revoke the license of any child day care facility or the registration certificate of any child day care home which that~~ ceases to meet the standards established by this Article and rules on these standards adopted by the Commission, or ~~which that~~ demonstrates a pattern of noncompliance with this Article or the rules, or to deny a license ~~or registration certificate~~ to any applicant that fails to meet the standards or the rules. These revocations and denials shall be done in accordance with the procedures set out in G.S. 150B and this Article and rules adopted by the Commission.
- (6) To prosecute or defend on behalf of the State; through the office of the Attorney General, any legal actions arising out of the administration or enforcement of this Article.
- (7) To promote and coordinate educational programs and materials for operators of child day care facilities ~~and child day care homes~~ which are designed to improve the quality of day child care available in the State, using the resources of other State and local agencies and educational institutions where appropriate.
- (8) ~~To issue a rated license when any operator of a child day care facility required to be licensed hereunder or requiring licensure pursuant to subdivision (11) of this section has satisfied the Secretary that it has met the voluntary standards developed and adopted by the Commission.~~
- (9) To levy a civil penalty pursuant to G.S. 110-103.1, or an administrative penalty pursuant to G.S. 110-102.2, or to order summary suspension of a ~~license or registration~~ license. These actions shall be done in accordance with the procedures set out in G.S. 150B and this Article and rules adopted by the Commission.
- (10) To issue final agency decisions in all G.S. 150B contested cases proceedings filed as a result of actions taken under this Article including, but not limited to the denial, ~~revocation~~ revocation, or suspension of a license or the levying of a civil or administrative penalty.
- (11) To issue a license ~~or registration certificate~~ to any child care arrangement that does not meet the definition of child day care facility ~~or child day care home~~ in G.S. 110-86 whenever the operator of the arrangement chooses to comply with the requirements of this Article and the rules adopted by the Commission, Commission and voluntarily applies for a child day care facility license or child day care home registration certificate, license. The Commission shall adopt rules for the issuance or removal of the ~~licenses or registration certificates~~ licenses."

Section 6. G.S. 110-90.1 is repealed.

Section 7. G.S. 110-90.2 reads as rewritten:

"§ 110-90.2. *Mandatory day child care providers' criminal history checks.*

(a) For purposes of this section:

(1) 'Child day care', notwithstanding the definition in G.S. 110-86, means any child day care provided in child day care facilities and ~~child day care homes, including child day care facilities and child day care homes~~ required to be licensed or registered under this Article and ~~nonregistered~~ nonlicensed child day care homes approved to receive or receiving State or federal funds for providing child day care.

(2) 'Child day care provider' means a person who:

- a. Is employed by or seeks to be employed by a child day care facility ~~or child day care home~~ providing child day care as defined in subdivision (1) of this subsection; subsection and has contact with the children; or
- b. Owns or operates or seeks to own or operate a child day care facility ~~or child day care home~~ or nonlicensed child care home providing child day care as defined in subdivision (1) of this ~~subsection.~~ subsection; or
- c. Is a member of the household in a family child care home or nonlicensed child care home and is over 15 years old and is present when children are in care. This subdivision shall apply only to new family child care homes and nonlicensed homes beginning March 1, 1998.

(3) 'Criminal history' means a county, state, or federal criminal history of conviction or pending indictment of a crime, whether a misdemeanor or a felony, that bears upon an individual's fitness to have responsibility for the safety and well-being of children as set forth in ~~G.S. 110-90.1.~~ G.S. 110-91(8). Such crimes include the following North Carolina crimes contained in any of the following Articles of Chapter 14 of the General Statutes: Article 6, Homicide; Article 7A, Rape and Kindred Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 26, Offenses Against Public Morality and Decency; Article 27, Prostitution; Article 39, Protection of Minors; Article 40, Protection of the Family; and Article 59, Public Intoxication. Such crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5. In addition to the North Carolina crimes listed in this subdivision, such crimes also include similar crimes under federal law or under the laws of other states.

(b) Effective January 1, 1996, the Department shall ensure that the criminal history of all child day care providers is checked and a determination is made of the child day care provider's fitness to have

responsibility for the safety and well-being of children based on the criminal history. The Department shall ensure that child day care providers who have lived in North Carolina continuously for the previous five years are checked for county and State criminal histories. The Department shall ensure that all other child day care providers are checked for county, State, and national criminal histories. The Department may prohibit a child day care provider from providing child day care if the Department determines that the child day care provider is unfit to have responsibility for the safety and well-being of children based on the criminal history, in accordance with G.S. 110-90.1, G.S. 110-91(8).

(c) The Department of Justice shall provide to the Division of Child Development, Department of Human Resources, the criminal history from the State and National Repositories of Criminal Histories of any child day care provider as requested by the Division.

The Division shall provide to the Department of Justice, along with the request, the fingerprints of the provider to be checked, any additional information required by the Department of Justice, and a form consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the repositories signed by the child day care provider to be checked. The fingerprints of the provider shall be forwarded to the State Bureau of Investigation for a search of their criminal history record file and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check.

At the time of application the day child care provider whose criminal history is to be checked shall be furnished with a statement substantially similar to the following:

'NOTICE

CHILD DAY CARE PROVIDER

MANDATORY CRIMINAL HISTORY CHECK

NORTH CAROLINA LAW REQUIRES THAT A CRIMINAL HISTORY CHECK BE CONDUCTED ON ALL PERSONS WHO PROVIDE CHILD DAY CARE IN A LICENSED OR REGISTERED CHILD DAY CARE FACILITY, AND ALL PERSONS PROVIDING CHILD DAY CARE IN NONREGISTERED NONLICENSED CHILD DAY CARE HOMES THAT RECEIVE STATE OR FEDERAL FUNDS.

'Criminal history' includes county, state, and federal convictions or pending indictments of any of the following crimes: the following Articles of Chapter 14 of the General Statutes: Article 6, Homicide; Article 7A, Rape and Kindred Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 26, Offenses Against Public Morality and Decency; Article 27, Prostitution; Article 39, Protection of Minors; Article 40, Protection of the Family; and Article 59, Public Intoxication; violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage

persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5; or similar crimes under federal law or under the laws of other states. Your fingerprints will be used to check the criminal history records of the State Bureau of Investigation (SBI) and the Federal Bureau of Investigation (FBI).

If it is determined, based on your criminal history, that you are unfit to have responsibility for the safety and well-being of children, you shall have the opportunity to complete, or challenge the accuracy of, the information contained in the SBI or FBI identification records.

If you disagree with the determination of the North Carolina Department of Human Resources on your fitness to provide child day care, you may file a civil lawsuit within 60 days after receiving written notification of disqualification in the district court in the county where you live.

Any child day care provider who intentionally falsifies any information required to be furnished to conduct the criminal history shall be guilty of a Class 2 misdemeanor.'

Refusal to consent to a criminal history check is grounds for the Department to prohibit the child day care provider from providing child day care. Any child day care provider who intentionally falsifies any information required to be furnished to conduct the criminal history shall be guilty of a Class 2 misdemeanor.

(d) The Department shall notify in writing the child day care provider, and the child day care provider's employer, if any, or for nonlicensed child care homes the local purchasing agency, of the determination by the Department whether the day child care provider is qualified to provide child day care based on the child day care provider's criminal history. In accordance with the law regulating the dissemination of the contents of the criminal history file furnished by the Federal Bureau of Investigation, the Department shall not release nor disclose any portion of the child day care provider's criminal history to the child day care provider or the child day care provider's ~~employer~~, employer or local purchasing agency. The Department shall also notify the child day care provider of the procedure for completing or challenging the accuracy of the criminal history and the child day care provider's right to contest the Department's determination in court.

A child day care provider who disagrees with the Department's decision may file a civil action in the district court of the county of residence of the child day care ~~provider~~, provider within 60 days after receiving written notification of disqualification.

(e) All the information that the Department receives through the checking of the criminal history is privileged information and is not a public record but is for the exclusive use of the Department and those persons authorized under this section to receive the information. The Department may destroy the information after it is used for the purposes authorized by this section after one calendar year.

(f) There shall be no liability for negligence on the part of an employer of a child day care provider, an owner or operator of a child day care home

or facility, a State or local agency, or the employees of a State or local agency, arising from any action taken or omission by any of them in carrying out the provisions of this section. The immunity established by this subsection shall not extend to gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable. The immunity established by this subsection ~~shall be deemed to have been~~ is waived to the extent of indemnification by insurance, indemnification under Article 31A of Chapter 143 of the General Statutes, and to the extent sovereign immunity is waived under the Torts Claim Act, as set forth in Article 31 of Chapter 143 of the General Statutes.

(g) ~~The child day care provider who seeks to be employed in child day care and the child day care provider who seeks to own or operate child day care shall pay the cost of the fingerprinting and the local check at the time the child day care provider seeks to provide child day care. check.~~ The Department of Justice shall perform the State criminal history check. If the Department determines that a day child care provider who has lived continuously in the State less than five years is not disqualified based on the local and State criminal history record check, the Department shall request a criminal history check from the National Repository of Criminal History from the Department of Justice. The Department of Human Resources shall pay the cost for the national criminal history record check."

Section 8. (a) G.S. 110-91 reads as rewritten:

"§ 110-91. *Mandatory standards for a license.*

All child care facilities shall comply with all State laws and federal laws and local ordinances that pertain to child health, safety, and welfare. The Except as otherwise provided in this Article, the following standards in this section shall be complied with by all child day care facilities, except as otherwise provided in this Article. facilities. However, none of the standards in this section apply to the school-age children of the operator of a child care facility but do apply to the preschool-age children of the operator. Children 13 years of age or older may receive child care on a voluntary basis provided all applicable required standards are met. These The standards in this section, along with any other applicable State laws and federal laws or local ordinances, shall be the only required standards for the issuance of a license by the Secretary under the policies and procedures of the Commission except that the Commission may, in its discretion, adopt less stringent standards for the licensing of facilities subject to licensing but which provide care on a temporary, part-time, drop-in, seasonal, after-school or other than a full-time basis.

- (1) Medical Care and Sanitation. -- The Commission for Health Services shall adopt rules which establish minimum sanitation standards for child day care facilities centers and their personnel. The sanitation rules adopted by the Commission for Health Services shall cover such matters as the cleanliness of floors, walls, ceilings, storage spaces, utensils, and other facilities; adequacy of ventilation; sanitation of water supply, lavatory facilities, toilet facilities, sewage disposal, food protection facilities, bactericidal treatment of eating and drinking utensils, and solid-waste storage and disposal; methods of food preparation

and serving; infectious disease control; sleeping facilities; and other items and facilities as are necessary in the interest of the public health. The Commission for Health Services shall allow child care facilities to use domestic kitchen equipment, provided appropriate temperature levels for heating, cooling, and storing are maintained. Child care centers that fry foods shall use commercial hoods. These rules shall be developed in consultation with the Department.

The Commission shall adopt rules for child care facilities to establish minimum requirements for child and staff health assessments and medical care procedures. These rules shall be developed in consultation with the Department of Environment, Health, and Natural Resources. Each child shall have a health assessment before being admitted or within 30 days following admission to a child day care facility. The assessment shall be done by: (i) a licensed physician, (ii) the physician's authorized agent who is currently approved by the North Carolina Medical Board, or comparable certifying board in any state contiguous to North Carolina, (iii) a certified nurse practitioner, or (iv) a public health nurse meeting the Department of Environment, Health, and Natural Resources' Standards for Early Periodic Screening, Diagnosis, and Treatment Program. A record of each child's assessment shall be on file in the records of the facility. However, no health assessment shall be required of any any staff or child who is and has been in normal health and whose when the staff, or the child's parent, guardian, or full-time custodian objects in writing to a health assessment on religious grounds which conform to the teachings and practice of any recognized church or religious denomination.

Each child shall be immunized in a manner that meets the requirements of Article 6 of Chapter 130A of the General Statutes and the pertinent rules adopted by the Commission for Health Services.

Each child day care facility shall have a plan of emergency medical care which shall include provisions for communication with and transportation to a specified medical resource, unless otherwise previously instructed. No child receiving day care shall be administered any drug or other medication without specific written instructions from a physician or the child's parent, guardian or full-time custodian. Emergency information on each child in care, including the names, addresses, and telephone numbers of the child's physician and parents, legal guardian or full-time custodian shall be readily available to the staff of the child day care facility while children are in care.

Nonprofit, tax-exempt organizations Organizations that provide prepared meals to day child care centers only are considered day child care centers for purposes of compliance with appropriate sanitation standards.

- (2) ~~Health-Related Activities. -- Each child in a child day care facility shall receive nutritious food and refreshments under rules to be adopted by the Commission. The Commission shall adopt rules for child care facilities to ensure that all children receive nutritious food and beverages according to their developmental needs. After consultation with the State Health Director, nutrition standards shall provide for specific requirements appropriate for infants, children of different ages. Nutrition standards shall provide for specific requirements for children older than infants, including a daily food plan for meals and snacks served that shall be adequate for good nutrition. The number and size of servings and snacks shall be appropriate for the ages of the children and shall be planned according to the number of hours the child is in care. Menus for meals and snacks shall be planned at least one week in advance, dated, and posted where they can be seen by parents.~~

~~Each child day care facility shall have a rest period for each child in care after lunch or at some other appropriate time and arrange for each child in care to be out-of-doors each day if weather conditions permit.~~

~~Each child day care facility shall have a rest period for each child in care after lunch or at some other appropriate time.~~

~~No child day care facility shall care for more than 25 children in one group. Facilities providing care for 26 or more children shall provide for two or more groups according to the ages of children and shall provide separate supervisory personnel for each group.~~

- (3) ~~Location. -- Each child day care facility shall be located in an area which is free from conditions which are deemed considered hazardous to the physical and moral welfare of the children in care in the opinion of the Commission, Secretary.~~
- (4) ~~Building. -- Each child day care facility shall be located in a building which meets the appropriate requirements of the North Carolina Building Code under standards which shall be developed by the Building Code Council, subject to adoption by the Commission specifically for child day care facilities, including facilities operated in a private residence. These standards shall be consistent with the provisions of this Article. A local building code enforcement officer shall approve any proposed alternate material, design, or method of construction, provided the building code enforcement officer finds that the alternate, for the purpose intended, is at least the equivalent of that prescribed in the technical building codes in quality, strength, effectiveness, fire resistance, durability, or safety. A local building code enforcement officer shall require that sufficient evidence or proof be submitted to substantiate any claim made regarding the alternate. The Child Care Commission may request changes to the Building Code to suit the special needs of preschool children. Satisfactorily written reports from representatives of building~~

inspection agencies shall be required prior to the issuance of a license and whenever renovations are made to a child care center, or when the operator requests licensure of space not previously approved for child care.

- (5) Fire Prevention. -- Each child day care facility shall be located in a building that meets the appropriate requirements for fire prevention and safe evacuation that apply to child day care facilities as established by the Department of Insurance, subject to adoption by the Commission. Insurance in consultation with the Department. Each Except for child care centers located on State property, each child day care facility center shall be inspected at least annually by a local fire department or volunteer fire department for compliance with these requirements, except that child day requirements. Child care facilities centers located on State property shall be inspected at least annually by an official designated by the Department of Insurance.
- (6) Space and Equipment Requirements. -- There shall be no less than 25 square feet of indoor space for each child for which a child day care facility center is licensed, exclusive of closets, passageways, kitchens, and bathrooms, and this floor space shall provide during rest periods 200 cubic feet of airspace per child for which the facility center is licensed. There shall be adequate outdoor play area for each child under rules adopted by the Commission which shall be related to the size and type of facility, center and the availability and location of outside land area, except in area. In no event shall the minimum required exceed 75 square feet per child, which child. The outdoor area shall be protected to assure the safety of the children receiving day child care by an adequate fence or other protection; provided, however, that a protection. A facility center operated in a public school shall be deemed to have adequate fencing protection; provided, also, that a facility protection. A center operating exclusively during the evening and early morning hours, between 6:00 P.M. and 6:00 A.M., need not meet the outdoor play area requirements mandated by this subdivision.

Each child day care facility shall provide indoor area equipment and furnishings that are child size, sturdy, safe, and in good repair. Each child care facility that provides outdoor area equipment and furnishings shall provide outdoor area equipment and furnishings that are child size, sturdy, free of hazards that pose a threat of serious injury to children while engaged in normal play activities, and in good repair. The Commission shall adopt standards to establish minimum requirements for equipment appropriate for the size of child care facility being operated pursuant to G.S. 110-86(3). facility. Space shall be available for proper storage of beds, cribs, mats, cots, sleeping garments, and linens as well as designated space for each child's personal belongings.

- (7) Staff-Child Ratio. Ratio and Capacity for Child Care Facilities. -- In determining the staff-child ratio, ratio in child care facilities, all children younger than 13 years old shall be counted.

a. The Commission shall adopt rules for child care centers regarding staff-child ratios, group sizes and multi-age groupings for each category of facility other than for infants and toddlers, provided that these rules shall be no less stringent than those currently required for staff-child ratios as enacted in Section 156(e) of Chapter 757 of the 1985 Session Laws.

1. Except as otherwise provided in this subdivision, The the staff-child ratios and group sizes for infants and toddlers in child care centers shall be no less stringent than as follows:

Age	Ratio Staff/Children	Group Size
0 to 12 months	1/5	10
12 to 24 months	1/6	12
2 to 3 years	1/10	20.

No child care center shall care for more than 25 children in one group. Child care centers providing care for 26 or more children shall provide for two or more groups according to the ages of children and shall provide separate supervisory personnel and separate identifiable space for each group.

2. When any preschool-aged child is enrolled in a child care center and the licensed capacity of the center is six through 12 children, the staff-child ratios shall be no less stringent than as follows:

Age	Ratio Staff/Children
0 to 12 months	1/5 preschool children plus 3 additional school-aged children
12 to 24 months	1/6 preschool children plus 2 additional school-aged children.

The following shall also apply:

- I. There is no specific group size.
- II. When only one caregiver is required to meet the staff-child ratio, the operator shall make available to parents the name, address, and phone number of an adult who is nearby and available for emergency relief.
- III. Children shall be supervised at all times. All children who are not asleep or resting shall be visually supervised. Children may sleep or rest in another room as long as a caregiver can hear them and respond immediately.

- b. Family Child Care Home Capacity. -- Of the children present at any one time in a family child care home, no more than five children shall be preschool-aged, including the operator's own preschool-age children.

- (8) Qualifications for Staff. -- All child care center administrators shall be at least 21 years of age. All child care center administrators shall have the North Carolina Early Childhood Administration Credential or its equivalent as determined by the Department. All child care administrators performing administrative duties as of the date this act becomes law and child care administrators who assume administrative duties at any time after this act becomes law and until September 1, 1998, shall obtain the required credential by September 1, 2000. Child care administrators who assume administrative duties after September 1, 1998, shall begin working toward the completion of the North Carolina Early Childhood Administration Credential or its equivalent within six months after assuming administrative duties and shall complete the credential or its equivalent within two years after beginning work to complete the credential. Each child day care facility center shall be under the direction or supervision of a literate person at least 21 years of age, meeting these requirements. All staff counted in determining toward meeting the required staff-child ratio shall be at least 16 years of age, provided that persons younger than 18 years of age work under the direct supervision of a literate credentialed staff person who is at least 21 years of age. All lead teachers in a child care center shall have at least a North Carolina Early Childhood Credential or its equivalent as determined by the Department. Lead teachers shall be enrolled in the North Carolina Early Childhood Credential coursework or its equivalent as determined by the Department within six months after becoming employed as a lead teacher or within six months after this act becomes law, whichever is later, and shall complete the credential or its equivalent within 18 months after enrollment.

For child care centers licensed to care for 200 or more children, the Department, in collaboration with the North Carolina Institute for Early Childhood Professional Development, shall establish categories to recognize the levels of education achieved by child care center administrators and teachers who perform administrative functions. The Department shall use these categories to establish appropriate staffing based on the size of the center and the individual staff responsibilities.

Effective January 1, 1998, an operator of a licensed family child care home shall be at least 21 years old and have a high school diploma or its equivalent. Operators of a family child care home licensed prior to January 1, 1998, shall be at least 18 years of age and literate. Literate is defined as understanding licensing requirements and having the ability to communicate with the family and relevant emergency personnel. Any operator of a licensed family child care home shall be the person on-site providing child care.

No person shall be an operator of nor be employed in a child day care facility who has been convicted of a crime involving

child neglect, child abuse, or moral turpitude, or who is an habitually excessive user of alcohol or who illegally uses narcotic or other impairing drugs, or who is mentally or emotionally impaired to an extent that may be injurious to children.

The Commission shall adopt standards to establish minimum appropriate qualifications for operators, supervisors, caregivers and all other staff who have direct contact with the children in child care centers. These standards shall reflect training, experience, education or and credentialing and shall be appropriate for the size facility being operated according to the categories defined in G.S. 110-86(3). center and the level of individual staff responsibilities. It is the intent of this provision to guarantee that all children in day child care are cared for by qualified people but also to recognize that qualifications for good child care may not be limited to formal education or training standards. To this end, the standards adopted by the Commission pertaining to training and educational requirements shall include provision that these requirements may be met by informal as well as formal training and educational experience. people. No requirements may interfere with the teachings or doctrine of any established religious organization.

- (9) Records. -- Each child day care facility shall keep accurate records on each child receiving care in the child day care facility and on each staff member or other person delegated responsibility for the care of children in accordance with a form furnished or approved by the Commission, and shall submit attendance reports records as required by the Department.

~~Each child day care facility shall keep accurate records on each staff member or other person delegated responsibility for the care of children in accordance with a form approved by the Commission.~~

All records of any child day care facility, except financial records, shall be subject to available for review by the Secretary or by duly authorized representatives of the Department or a cooperating agency who shall be designated by the Secretary. Secretary and shall be submitted as required by the Department.

~~Any effort to falsify information provided to the Department shall be deemed by the Secretary to be evidence of violation of this Article on the part of the operator or sponsor of the child day care facility and shall constitute a cause for revoking or denying a license to this child day care facility.~~

- (10) Each operator or staff member shall truly and honestly show each attend to any child in that person's care true love, devotion and tender care, a nurturing and appropriate manner, and in keeping with the child's developmental needs.

Each day child care facility shall have a written policy on discipline, describing the methods and practices used to discipline children enrolled in that facility. This written policy shall be discussed with, and a copy given to, each child's parent prior to

the first time the child attends the facility. Subsequently, any change in discipline methods or practices shall be communicated in writing to the parents prior to the effective date of the change.

The use of corporal punishment as a form of discipline is prohibited in day child care facilities and may not be used by any operator or staff member of any day child care facility, except that corporal punishment may be used in church religious sponsored child day care facilities as defined in G.S. 110-106, only if (i) the church religious sponsored child day care facility files with the Department a notice stating that corporal punishment is part of the religious training of its program, and (ii) the church religious sponsored child day care facility clearly states in its written policy of discipline that corporal punishment is part of the religious training of its program. The written policy on discipline of nonchurch nonreligious sponsored child day care facilities shall clearly state the prohibition on corporal punishment.

- (11) Staff Development. -- The Commission shall adopt minimum standards for ongoing staff development for facilities. facilities but limited to the following topic areas:

- a. Planning a safe, healthy learning environment;
- b. Steps to advance children's physical and intellectual development;
- c. Positive ways to support children's social and emotional development;
- d. Strategies to establish productive relationships with families;
- e. Strategies to manage an effective program operation;
- f. Maintaining a commitment to professionalism;
- g. Observing and recording children's behavior;
- h. Principles of child growth and development; and
- i. Learning activities that promote inclusion of children with special needs.

These standards shall include annual requirements for ongoing in-service training for all staff. staff development appropriate to job responsibilities. A person may carry forward in-service training hours that are in excess of the previous year's requirement to meet up to one-half of the current year's required in-service training hours.

- (12) Planned Age Developmentally Appropriate Activities. -- Each child day care facility shall have a planned schedule of activities posted in a prominent place to enable parents to review it, and a written plan of age developmentally appropriate activities available to parents. Each facility shall have age appropriate activities and play materials to implement the written plan, and play materials. The Commission shall establish minimum standards for age-appropriate developmentally appropriate activities appropriate for each category of facility as defined in G.S. 110-86(3). child care facilities. Each child care facility shall have a planned schedule of developmentally appropriate activities displayed in a

prominent place for parents to review and the appropriate materials and equipment available to implement the scheduled activities. Each child care center shall make four of the following activity areas available daily: art and other creative play, children's books, blocks and block building, manipulatives, and family living and dramatic play.

- (13) Transportation. -- All child day care facilities shall abide by North Carolina law regulating the use of seat belts and child passenger restraint devices. All vehicles operated by any facility staff person or volunteer to transport children shall be properly equipped with appropriate seat belts or child restraint devices as approved by the Commissioner of Motor Vehicles. Each When a child care facility staff person or a volunteer of a child care facility transports children in a vehicle, each adult and child shall be restrained by an appropriate seat safety belt or restraint device when the vehicle is in motion. These restraint regulations do not apply to vehicles not required by federal law to be equipped with seat restraints. All vehicles used to transport children shall meet and maintain the safety inspection standards of the Division of Motor Vehicles of the Department of Transportation and the facility shall comply with all other applicable State and federal laws and regulations concerning the operation of a motor vehicle. Children may never be left unattended in a vehicle.

The ratio of adults to children in child day care vehicles may not be less than the staff/child ratios prescribed by G.S. 110-91(7). The Commission shall adopt standards for transporting children under the age of two, including standards addressing this particular age's staff/child ratio during transportation.

- (14) Any effort to falsify information provided to the Department shall be considered by the Secretary to be evidence of violation of this Article on the part of the operator or sponsor of the child care facility and shall constitute a cause for revoking or denying a license to such child care facility."

Section 9. G.S. 110-92 reads as rewritten:

"§ 110-92. Duties of State and local agencies.

When requested by an operator of a day-care facility child care center or by the ~~Secretary~~ Secretary, it shall be the duty of local and district health departments to visit and inspect a day-care facility child care center to determine whether the facility center complies with the health and sanitation standards required by this Article and with the minimum sanitation standards adopted as rules by the Commission for Health Services as authorized by G.S. 110-91(1), and to submit written reports on such these visits or inspections to the Department on forms approved and provided by the Department of Environment, Health, and Natural Resources.

When requested by an operator of a day-care facility child care center or by the Secretary, it shall be the duty of the local and district health departments, and any building inspector, fire prevention inspector, or fireman employed by local government, or any fireman having jurisdiction,

or other officials or personnel of local government to visit and inspect a ~~day-care facility~~ child care center for the purposes specified in this Article, including plans for evacuation of the premises and protection of children in case of fire, and to report on ~~such these~~ visits or inspections in writing to the Secretary so that ~~such these~~ reports may serve as the basis for action or decisions by the Secretary or Department as authorized by this Article."

Section 10. G.S. 110-93 reads as rewritten:

"§ 110-93. ~~Licensing procedure.~~ Application for a license.

(a) Each ~~operator of person who seeks to operate a day-care child care facility~~ shall ~~annually~~ apply to the Department for a license. The application shall be in ~~such the form as is~~ required by the Department. Each operator seeking a license shall be responsible for ~~accompanying his application with~~ supplying with the application the necessary supporting data and reports to show conformity with rules adopted by the Commission for Health Services pursuant to G.S. 110-91(1) and with the standards established or authorized by this ~~Article~~ Article, including ~~any required~~ reports from the local and district health departments, local building inspectors, local firemen, voluntary firemen, and others, on forms which shall be provided by the Department.

(b) If an operator conforms to the rules adopted by the Commission for Health Services pursuant to G.S. 110-91(1) and with the standards established or authorized by this Article as shown in ~~his the~~ application and other supporting data, the Secretary of ~~Human Resources~~ shall issue a license ~~for no more than 12 months~~ that shall remain valid until the Secretary notifies the licensee otherwise pursuant to G.S. 150B-3 or other provisions of this Article, subject to suspension or revocation for cause as provided in this Article. If the applicant fails to conform to the required rules and standards, the Secretary may issue a provisional license under the policies of the ~~Commission provided that the~~ Commission. The Department shall ~~notify the operator~~ shall be notified in writing by registered or certified mail of the reasons the Department issued for issuance of a provisional license.

~~(c) Each licensed operator of a child day-care facility must annually apply in order to renew the license and must accompany such renewal application with such supporting data and reports as are required to show conformity with the standards established under this Article.~~

(d) Repealed by Session Laws 1977, c. 929, s. 1."

Section 11. G.S. 110-94 reads as rewritten:

"§ 110-94. Administrative Procedure Act.

The provisions of ~~General Statutes~~ Chapter 150B of the General Statutes ~~known as the Administrative Procedure Act~~ shall be applicable to the Commission and Commission, to the rules ~~it the Commission adopts.~~ adopts. ~~The Administrative Procedure Act shall also apply~~ adopts, and to child day care contested cases. However, a child day care operator shall have 30 days to file a petition for a contested case pursuant to G.S. 150B-23. The contested case hearing shall be scheduled to be held within 120 days of the date the petition for a hearing is received, pursuant to G.S. 150B-23(a), in any contested case resulting from administrative action taken by the ~~Department~~ Secretary to revoke a license, registration certificate, license or Letter of

Compliance or from administrative action taken in a situation in which child abuse or neglect in a child ~~day care facility or home~~ has been substantiated. A request for continuance of a hearing shall be granted upon a showing of good cause by either party."

Section 12. G.S. 110-98 reads as rewritten:

"§ 110-98. *Mandatory compliance.*

It shall be unlawful for any ~~operator or employee of a day-care facility or day-care home~~ person to to:

- (1) ~~offer~~ Offer or provide day child care without complying with the provisions of this ~~Article.~~ Article; or
- (2) Advertise without disclosing the child care facility's identifying number that is on the license or the letter of compliance."

Section 13. G.S. 110-98.1 reads as rewritten:

"§ 110-98.1. *Prima facie evidence of existence of ~~day-care~~ child care.*

A ~~child-care~~ child care arrangement providing day child care for more than two children for more than four hours per day on two or more consecutive days shall be prima facie evidence of the existence of a ~~day-care child care facility or day-care home.~~ facility."

Section 14. G.S. 110-99 reads as rewritten:

"§ 110-99. *Display of license.*

(a) Each ~~day-care~~ child care facility shall ~~maintain~~ display its current license ~~displayed~~ in a prominent place at all times so that the public may be on notice that the facility is licensed and may observe any ~~grade or~~ rating which may appear on the license. Any license issued to a child care facility under this Article shall remain the property of the State and may be removed by persons employed or designated by the Secretary in the event that the license is revoked or suspended, or in the event that the rating is changed.

(b) A person who provides only drop-in or short-term child care as described in G.S. 110-86(2)(d) shall notify the Department that the person is providing only drop-in or short-term child care. Any person providing only drop-in or short-term child care as described in G.S. 110-86(2)(d) shall display in a prominent place at all times a notice that the child care arrangement is not required to be licensed and regulated by the Department and is not licensed and regulated by the Department."

Section 15. G.S. 110-100 is repealed.

Section 16. G.S. 110-101 is repealed.

Section 17. G.S. 110-101.1 reads as rewritten:

"§ 110-101.1. *Corporal punishment banned in certain 'nonregistered' 'nonlicensed' homes.*

The use of corporal punishment as a form of discipline is prohibited in those day child care homes that are not required to be ~~registered~~ licensed under this Article but that receive State or federal subsidies for child day care unless this care is provided to children by their parents, stepparents, grandparents, aunts, uncles, step-grandparents, or great-grandparents. Care provided children by their parents, stepparents, grandparents, aunts, uncles, step-grandparents, or great-grandparents is not subject to this section. Religious sponsored ~~nonregistered~~ nonlicensed homes are also exempt from this section."

Section 18. G.S. 110-102 reads as rewritten:

"§ 110-102. Information for parents.

The Secretary of ~~Human Resources~~ shall provide to each operator of a day-care child care facility a summary of this Article for the parents, guardian, or full-time custodian of each child receiving day child care in the facility to be distributed by the operator. The summary shall include the name and address of the Secretary of ~~Human Resources~~ and the address of the Commission. The summary shall also include a statement regarding the mandatory duty prescribed in G.S. 7A-543 of any person suspecting child abuse or neglect has taken place in day child care, or elsewhere, to report to the county Department of Social Services. The statement shall include the definitions of child abuse and neglect described in the Juvenile Code in G.S. 7A-517 and of child abuse described in the Criminal Code in G.S. 14-318.2 and G.S. 14-318.4. The statement shall stress that this reporting law does not require that the person reporting reveal his the person's identity."

Section 19. G.S. 110-102.1 reads as rewritten:

"§ 110-102.1. Reporting of missing or deceased children.

(a) Operators and staff, as defined in G.S. 110-86(7), ~~110-90.1~~ and G.S. 110-91(8), or any adult present with the approval of the care provider in a day-care child care facility or home, as defined in ~~G.S. 110-86(3), (4)~~ G.S. 110-86(3) and G.S. 110-106, upon learning that a child which has been placed in their care or presence is missing, shall immediately report the missing child to law enforcement. For purposes of this Article, a child is anyone under the age of 18.

(b) If a child dies while in day child care, or of injuries sustained in day child care, a report of the death must be made by the day child care operator to the Secretary within 24 hours of the child's death or on the next working day."

Section 20. G.S. 110-103 reads as rewritten:

"§ 110-103. Criminal penalty.

Any person who violates the provisions of G.S. 110-98 through G.S. ~~110-100 110-99~~ or G.S. 110-102 shall be guilty of a Class 1 ~~misdemeanor~~, misdemeanor, except that Any any person operating a family child care home as defined in G.S. 110-86(3) who violates G.S. 110-101 the provisions of G.S. 110-98 through G.S. 110-99 or G.S. 110-102 shall be guilty of a Class 3 misdemeanor."

Section 21. G.S. 110-103.1(a) reads as rewritten:

"(a) A civil penalty may be levied against any operator of any child day care facility or home who violates any provision of this Article. The penalty shall not exceed one thousand dollars (\$1,000) for each violation documented on any given date. Every operator shall be provided a schedule of the civil penalties established by the Commission pursuant to this Article."

Section 22. G.S. 110-104 reads as rewritten:

"§ 110-104. Injunctive relief.

The Secretary or his the Secretary's designee may seek injunctive relief in the district court of the county in which a day-care child care facility or day-care home is located against the continuing operation of that day-care child care facility or day-care home at any time, whether or not any administrative proceedings are pending. The district court may grant

injunctive relief, temporary, preliminary, or permanent, when there is any violation of this Article or of the rules promulgated by the Commission or the Commission for Health Services that threatens serious harm to children in the day-care child care facility or day-care home, facility, or when a final order to deny or revoke a license or registration has been violated, or when a day-care child care facility is operating without a license or a day-care home is operating without being registered, license, or when a day-care child care facility or day-care home repeatedly violates the provisions of this Article or rules adopted pursuant to it after having been notified of the violation."

Section 23. G.S. 110-105 reads as rewritten:

"§ 110-105. *Authority to inspect facilities.*

(a) The Commission shall adopt standards and rules under this subsection which provide for the following types of inspections:

- (1) An initial licensing ~~or certification~~ inspection, which shall not occur until the administrator of the facility receives prior notice of the initial inspection ~~or certification~~ visit;
- (2) A plan for ~~routine inspections of visits to~~ all facilities, including announced and unannounced visits, which shall be confidential ~~unless a court orders its disclosure, and which shall be conducted without prior notice to the facility; disclosure;~~
- (3) An inspection that may be conducted without notice, if there is probable cause to believe that an emergency situation exists or there is a complaint alleging a violation of licensure law. When the Department is notified by the county director of social services that the director has received a report of child abuse or neglect in a child day-care care facility, or when the Department is notified by any other person that alleged abuse or neglect has occurred in a facility, the Commission's rules shall provide for an inspection conducted without notice to the child day-care care facility to determine whether the alleged abuse or neglect has occurred. This inspection shall be conducted within seven calendar days of receipt of the report, and when circumstances warrant warrant, additional visits, ~~the second inspection shall be conducted within one month of the first visit.~~ visits shall be conducted.

The Secretary or the Secretary's designee, upon presenting appropriate credentials to the operator of the child day-care care facility, ~~is authorized to~~ may perform inspections in accordance with the standards and rules promulgated under this subsection. The Secretary or the Secretary's designee may inspect any area of a building in which there is reasonable evidence that children are in care.

(b) If an operator refuses to allow the Secretary or ~~his~~ the Secretary's designee to inspect the day-care child care facility, the Secretary shall seek an administrative warrant in accordance with G.S. 15-27.2."

Section 24. G.S. 110-105.1 is repealed.

Section 25. G.S. 110-105.2 reads as rewritten:

"§ 110-105.2. *Abuse and neglect violations.*

(a) For purposes of this Article, child abuse and neglect, as defined in G.S. 7A-517 and in G.S. 14-318.2 and G.S. 14-318.4, occurring in

~~day-care child care facilities facilities, and homes,~~ are violations of the licensure ~~and registration~~ standards and of the licensure ~~and registration~~ law.

(b) When an investigation pursuant to G.S. 110-105(a)(3) substantiates that child abuse or neglect did occur in a child care facility, the Department may issue a written warning which shall specify any corrective action to be taken by the operator. The Department shall make an unannounced visit within one month after issuance of the written warning to determine whether the corrective action has occurred. If the corrective action has not occurred, then the Department may issue a special provisional license.

(c) When the Department issues a special provisional license pursuant to this section, the Department shall send a letter which states the reasons for the special provisional status, and the license shall specify corrective action that shall be taken by the operator. A special provisional license issued pursuant to this section shall be in effect for no more than six months from issuance. The operator shall post, where parents can see them, the letter stating the reasons for the special provisional status and the special provisional license. Under the terms of the special provisional license, the Secretary may limit enrollment of new children until satisfied the abusive or neglectful situation no longer exists. The Department shall make unannounced visits as often as the Department believes it is necessary during the period the special provisional license is in effect.

(d) Specific corrective action required by a written warning, special provisional license, or any other administrative penalty authorized by this Article may include the permanent removal of the substantiated abuser or neglecter from child care.

(e) Nothing in this section shall restrict the Secretary from using any other statutory or administrative remedies available."

Section 26. G.S. 110-106 reads as rewritten:

"§ 110-106. Religious sponsored ~~day-care~~ child care facilities.

(a) The term ~~'church day-care~~ 'religious sponsored child care facility' as used ~~herein in this section~~ shall include any ~~day-care~~ child care facility or summer day camp operated by a church, synagogue or school of religious charter.

(b) Reporting Procedure Regarding of Church Day-Care Religious Sponsored Child Care Facilities. --

(1) Church day Religious sponsored child care facilities shall file with the Department a notice of intent to operate a ~~day~~ child care facility and the date it will begin operation at least 30 days prior to that date. Within 30 days after beginning operation, the facility shall provide to the Department written reports and supporting data which show the facility is in compliance with applicable provisions of G.S. 110-91. After the ~~church day~~ religious sponsored child care facility has filed this information with the Department, the facility shall be visited by a representative of the Department to assure ensure compliance with the applicable provisions of G.S. 110-91.

(2) Each ~~church day-care~~ religious sponsored child care facility shall annually file with the Department a report indicating that it meets

the minimum standards for facilities as provided in the applicable provisions of G.S. ~~110-91~~, 110-91 as required by the Department. The reports shall be in accordance with rules adopted by the Commission. Each ~~church day-care~~ religious sponsored child care facility shall be responsible for ~~accompanying~~ supplying with its report ~~with~~ the necessary supporting data to show conformity with those minimum standards, including reports from the local and district health departments, local building inspectors, local firemen, volunteer firemen, and other, on forms which shall be provided by the Department.

- (3) It shall be the responsibility of the Department to notify the facility if it fails to meet the minimum requirements. The Secretary shall be responsible for carrying out the enforcement provisions provided by the General Assembly in Article 7 of Chapter 110 including inspection to ~~insure~~ ensure compliance. The Secretary ~~shall be empowered to~~ may issue an order requiring a ~~church day-care~~ religious sponsored child care facility which fails to meet the standards established pursuant to this Article to cease operating. A ~~church day-care~~ religious sponsored child care facility may request a hearing to determine if it is in compliance with the applicable provisions of G.S. 110-91. If the Secretary determines that it is not, ~~it~~ the Secretary may order the facility to cease operation until it is in compliance.
- (4) ~~Church day-care~~ Religious sponsored child care facilities including summer day camps shall be exempt from the requirement that they obtain a license and that the license be displayed and shall be exempt from any subsequent rule or regulatory program not dealing specifically with the minimum standards as provided in the applicable provisions of G.S. 110-91. Nothing in this Article shall be interpreted to allow the State to regulate or otherwise interfere with the religious training offered as a part of any ~~church day-care~~ religious sponsored child care program. Nothing in this Article shall prohibit any ~~church-operated, synagogue-operated, or religious affiliated~~ religious sponsored child care facility from becoming licensed by the State if it so chooses.
- (5) ~~Church day-care~~ Religious sponsored child care facilities found to be in violation of the applicable provisions of G.S. 110-91 shall be subject to the injunctive provisions of G.S. 110-104, except that they may not be enjoined for operating without a license. The Secretary ~~is empowered to~~ may seek an injunction against any ~~such~~ religious sponsored child care facility under the conditions specified in G.S. 110-104 with the above exception and when any ~~such~~ religious sponsored child care facility operates without submitting the required forms and following the procedures required by this Article.

(c) G.S. 110-91(8), G.S. 110-91(11), G.S. ~~110-91(12)~~, 110-91(12) and the second paragraph of G.S. ~~110-91(8)~~ do not apply to religious sponsored ~~day-care~~ child care facilities, and these facilities are exempt from any requirements prescribed by subsection (b) of this section that arise out of

these provisions. ~~No staff qualifications other than those prescribed by the first paragraph of G.S. 110-91(8) shall apply to religious sponsored day care facilities.~~

(d) No person shall be an operator of nor be employed in a religious sponsored child care facility who has been convicted of a crime involving child neglect, child abuse, or moral turpitude, or who is a habitually excessive user of alcohol or who illegally uses narcotic or other impairing drugs, or who is mentally or emotionally impaired to an extent that may be injurious to children.

(e) Each religious sponsored child care facility shall be under the direction or supervision of a literate person at least 21 years of age. All staff counted toward meeting the required staff/child ratio shall be at least 16 years old, provided that persons younger than 18 years old work under the direct supervision of a literate staff person at least 21 years old. Effective January 1, 1998, a person operating a religious sponsored child care home must be at least 21 years old and literate. Persons operating religious sponsored child care homes prior to January 1, 1998, shall be at least 18 years old and literate. The definition of literate in G.S. 110-91(8) shall apply to this subsection."

Section 27. G.S. 110-106.1 is repealed.

Section 28. G.S. 110-91(6) limits the authority of the Child Care Commission to adopt rules to ensure that outdoor play area equipment and furnishings at child care facilities are free of hazards that pose a threat of serious injury to children while engaged in normal supervised play activities. Accordingly, pursuant to G.S. 150B-21.7, rules adopted by the Child Care Commission requiring conformance to United States Consumer Product Safety Commission guidelines for playground safety, including amendments thereto, are repealed.

Section 28.1. The following rules are repealed:

10 NCAC 3U .0510(e), Activity Areas: Preschool Children Two Years and Older; and

10 NCAC 3U .0714(g), Other Staffing Requirements.

Section 28.2. (a) There is established the Legislative Study Commission on Child Care. The Commission shall study the substantive issues contained in Part 1 of this act. There shall be 20 members of the Commission as follows:

(1) Ten members appointed by the Speaker of the House of Representatives, seven of whom shall be members of the House of Representatives at the time of their appointment, and three of whom shall be members of the general public interested in child care;

(2) Ten members appointed by the President Pro Tempore of the Senate, seven of whom shall be members of the Senate at the time of their appointment, and three of whom shall be members of the general public interested in child care.

(b) Commission members shall receive no salary for serving, but shall receive necessary subsistence and travel expenses in accordance with G.S. 120-3.1, 138-5, and 138-6 as applicable. Staff to the Commission shall be provided as authorized by the Legislative Services Commission. The

Commission may meet in the Legislative Building or the Legislative Office Building upon approval of the Legislative Services Officer.

(c) The Commission shall report its findings and recommendations, including proposed legislation, to the 1997 General Assembly, Regular Session 1998, and shall make its final report to the 1999 General Assembly upon its convening. Upon issuing its final report, the Commission shall expire.

Section 28.3. The Department of Human Resources, Division of Child Development and the Child Care Commission shall not promote or require the utilization of training materials, curriculum, or policy developed or provided by the National Association for the Education of Young Children or the National Institute for Early Childhood Professional Development. The Division and the Commission shall permit individual facilities to make curriculum decisions.

PART 2. STATUTORY TECHNICAL AND CONFORMING CHANGES.

Section 29. G.S. 7A-474.3(b) reads as rewritten:

"(b) Eligible Cases. Legal assistance shall be provided to eligible clients under this Article only in the following types of cases:

- (1) Family violence or spouse abuse;
- (2) Assistance for the disabled in obtaining federal Social Security benefits;
- (3) Representation of eligible farmers faced with the potential of farm foreclosure;
- (4) Representation of eligible clients over the age of 60 regarding the following matters:
 - a. Wills and estates;
 - b. Safe and sanitary housing;
 - c. Pensions and retirement rights;
 - d. Social Security and Medicare rights;
 - e. Access to health care;
 - f. Food and nutrition; and
 - g. Transportation.
- (5) Representation of eligible clients designed to enable them to obtain the necessary skills and means to obtain meaningful employment at a decent wage and reduce the public welfare rolls; and
- (6) Representation of eligible clients under the age of 21 or eligible families with legal problems affecting persons under the age of 21 regarding the following matters:
 - a. Financial support and custody of children;
 - b. Day Child care;
 - c. Child abuse or neglect;
 - d. Safe and sanitary housing;
 - e. Food and nutrition; and
 - f. Access to health care."

Section 30. G.S. 7A-517(5) reads as rewritten:

- "(5) Caretaker. -- Any person other than a parent, guardian, or custodian who has responsibility for the health and welfare of a juvenile in a residential setting. A person responsible for a juvenile's health and welfare means a stepparent, foster parent,

an adult member of the juvenile's household, an adult relative entrusted with the juvenile's care, or any person such as a house parent or cottage parent who has primary responsibility for supervising a juvenile's health and welfare in a residential child care facility or residential educational facility. 'Caretaker' also means any person who has the responsibility for the care of a juvenile in a ~~child day care home or~~ child day care facility as defined in Article 7 of Chapter 110 of the General Statutes and includes any person who has the approval of the care provider to assume responsibility for the juveniles under the care of the care provider. Nothing in this subdivision shall be construed to impose a legal duty of support under Chapter 50 or Chapter 110 of the General Statutes. The duty imposed upon a caretaker as defined in this subdivision shall be for the purpose of Chapter 7A of the General Statutes only."

Section 31. G.S. 7A-542 reads as rewritten:

"§ 7A-542. *Protective services.*

The Director of the Department of Social Services in each county of the State shall establish protective services for juveniles alleged to be abused, neglected, or dependent.

Protective services shall include the investigation and screening of complaints, casework or other counseling services to parents or other caretakers as provided by the director to help the parents or other caretakers and the court to prevent abuse or neglect, to improve the quality of child care, to be more adequate parents or caretakers, and to preserve and stabilize family life.

The provisions of this Article shall also apply to child day care facilities and ~~child day care homes~~ as defined in G.S. 110-86."

Section 32. G.S. 7A-543 reads as rewritten:

"§ 7A-543. *Duty to report child abuse, neglect, dependency, or death due to maltreatment.*

Any person or institution who has cause to suspect that any juvenile is abused, neglected, or dependent, as defined by G.S. 7A-517, or has died as the result of maltreatment, shall report the case of that juvenile to the Director of the Department of Social Services in the county where the juvenile resides or is found. The report may be made orally, by telephone, or in writing. The report shall include information as is known to the person making it including the name and address of the juvenile; the name and address of the juvenile's parent, guardian, or caretaker; the age of the juvenile; the names and ages of other juveniles in the home; the present whereabouts of the juvenile if not at the home address; the nature and extent of any injury or condition resulting from abuse, neglect, or dependency; and any other information which the person making the report believes might be helpful in establishing the need for protective services or court intervention. If the report is made orally or by telephone, the person making the report shall give the person's name, address, and telephone number. Refusal of the person making the report to give a name shall not preclude the Department's investigation of the alleged abuse, neglect, dependency, or death as a result of maltreatment.

Upon receipt of any report of child sexual abuse in a day child care facility or day care home, facility, the Director shall notify the State Bureau of Investigation within 24 hours or on the next work day. If child sexual abuse in a day child care facility or day care home is not alleged in the initial report, but during the course of the investigation there is reason to suspect that child sexual abuse has occurred, the Director shall immediately notify the State Bureau of Investigation. Upon notification that child sexual abuse may have occurred in a day child care facility or day care home, facility, the State Bureau of Investigation may form a task force to investigate the report."

Section 33. G.S. 7A-548 reads as rewritten:

"§ 7A-548. *Duty of Director to report evidence of abuse, neglect; investigation by local law enforcement; notification of Department of Human Resources and State Bureau of Investigation.*

(a) If the Director finds evidence that a juvenile may have been abused as defined by G.S. 7A-517(1), the Director shall make an immediate oral and subsequent written report of the findings to the district attorney or the district attorney's designee and the appropriate local law enforcement agency within 48 hours after receipt of the report. The local law enforcement agency shall immediately, but no later than 48 hours after receipt of the information, initiate and coordinate a criminal investigation with the protective services investigation being conducted by the county Department of Social Services. Upon completion of the investigation, the district attorney shall determine whether criminal prosecution is appropriate and may request the Director or the Director's designee to appear before a magistrate.

If the Director receives information that a juvenile may have been physically harmed in violation of any criminal statute by any person other than the juvenile's parent, guardian, custodian, or caretaker, the Director shall make an immediate oral and subsequent written report of that information to the district attorney or the district attorney's designee and to the appropriate local law enforcement agency within 48 hours after receipt of the information. The local law enforcement agency shall immediately, but no later than 48 hours after receipt of the information, initiate a criminal investigation. Upon completion of the investigation, the district attorney shall determine whether criminal prosecution is appropriate.

If the report received pursuant to G.S. 7A-543 involves abuse or neglect of a juvenile in day child care, either in a day care facility or a day care home, the Director shall notify the Department of Human Resources within 24 hours or on the next working day of receipt of the report.

(a1) If the Director finds evidence that a juvenile has been abused or neglected as defined by G.S. 7A-517 in a day child care facility or day care home, facility, ~~he~~ the Director shall immediately so notify the Department of Human Resources and, in the case of child sexual abuse, the State Bureau of Investigation, in such a way as does not violate the law guaranteeing the confidentiality of the records of the Department of Social Services.

(a2) Upon completion of the investigation, the Director shall give the Department written notification of the results of the investigation required by G.S. 7A-544. Upon completion of an investigation of child sexual abuse in

a ~~day child care facility or day care home, facility~~, the Director shall also make written notification of the results of the investigation to the State Bureau of Investigation.

The Director of the Department of Social Services shall submit a report of alleged abuse, neglect, or dependency cases or child fatalities that are the result of alleged maltreatment to the central registry under the policies adopted by the Social Services Commission.

(b) Repealed by Session Laws 1991, (Reg. Sess., 1992), c. 923, s. 4."

Section 34. G.S. 95-28.3(a) reads as rewritten:

"(a) It is the belief of the General Assembly that parent involvement is an essential component of school success and positive student outcomes. Therefore, employers shall grant four hours per year leave to any employee who is a parent, guardian, or person standing in loco parentis of a school-aged child so that the employee may attend or otherwise be involved at that child's school. However, any leave under this section is subject to the following conditions:

- (1) The leave shall be at a mutually agreed upon time between the employer and the employee.
- (2) The employer may require an employee to provide the employer with a written request for the leave at least 48 hours before the time desired for the leave.
- (3) The employer may require that the employee furnish written verification from the child's school that the employee attended or was otherwise involved at that school during the time of the leave.

For the purpose of this section, 'school' means any (i) public school, (ii) private church school, church of religious charter, or nonpublic school described in Parts 1 and 2 of Article 39 of Chapter 115C of the General Statutes that regularly provides a course of grade school instruction, (iii) preschool, and (iv) child day care facility as defined in G.S. 110-86(3)."

Section 36. G.S. 105-164.13(26a) reads as rewritten:

"(26a) Food sold not for profit by a public school cafeteria to a child day care center that participates in the Child and Adult Care Food Program of the Department of Public Instruction."

Section 37. G.S. 114-15.3 reads as rewritten:

"§ 114-15.3. *Investigations of child sexual abuse in day child care.*

The Director of the Bureau may form a task force to investigate and gather evidence following a notification by the director of a county department of social services, pursuant to G.S. 7A-543, that child sexual abuse may have occurred in a ~~day child care facility or day care home, facility~~."

Section 38. G.S. 114-19.3(a) reads as rewritten:

"(a) Authority. -- The Department of Justice may provide to any of the following entities a criminal record check of an individual who is employed by that entity, has applied for employment with that entity, or has volunteered to provide direct care on behalf of that entity:

- (1) Hospitals licensed under Chapter 131E of the General Statutes.
- (2) Nursing homes or combination homes licensed under Chapter 131E of the General Statutes.

- (3) Adult care homes licensed under Chapter 131D of the General Statutes.
- (4) Home care agencies or hospices licensed under Chapter 131E of the General Statutes.
- (5) Child placing agencies licensed under Chapter 131D of the General Statutes.
- (6) Residential child care facilities licensed under Chapter 131D of the General Statutes.
- (7) Hospitals licensed under Chapter 122C of the General Statutes.
- (8) Area mental health, developmental disabilities, and substance abuse authorities licensed under Chapter 122C of the General Statutes, including a contract agency of an area authority that is subject to the provisions of Article 4 of that Chapter.
- (9) Licensed child day care facilities ~~and registered and nonregistered nonlicensed child day care homes~~ regulated by the State.
- (10) Any other organization or corporation, whether for profit or nonprofit, that provides direct care or services to children, the sick, the disabled, or the elderly."

Section 39. G.S. 114-19.5 reads as rewritten:

"§ 114-19.5. *Criminal record checks of child day care providers.*

The Department of Justice may provide to the Division of Child Development, Department of Human Resources, the criminal history from the State and National Repositories of Criminal Histories in accordance with G.S. 110-90.2, of any child day care provider, as defined in G.S. 110-90.2. The Division shall provide to the Department of Justice, along with the request, the fingerprints of the provider to be checked, any additional information required by the Department of Justice, and a form consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories signed by the child day care provider to be checked. The Division shall keep all information pursuant to this section privileged, as provided in G.S. 110-90.2(e). The Department of Justice shall charge a reasonable fee only for conducting the checks of the national criminal history records authorized by this section."

Section 40. G.S. 115C-468(c) reads as rewritten:

"(c) The Superintendent of Public Instruction may earmark up to twenty percent (20%) of the funds available for scholarship loans each year for awards to applicants who have been employed for at least one year as teacher assistants and who are currently employed as teacher assistants. Preference for these scholarship loans from funds earmarked for teacher assistants shall be given first to applicants who worked as teacher assistants for at least five years and whose positions as teacher assistants were abolished and then to applicants who already hold a baccalaureate degree or who have already been formally admitted to an approved teacher education program in North Carolina. The criteria for awarding scholarship loans to applicants who worked as teacher assistants for at least five years and whose positions as teacher assistants were abolished shall include whether the teacher assistant has been admitted to an approved teacher education program in North Carolina.

The Superintendent of Public Instruction may further earmark a portion of these funds each year for two-year awards to applicants who have been employed for at least one year as teacher assistants to attend community colleges to get other skills of use in public schools or to get an early childhood associate degree. The provisions of this Article shall apply to these scholarship loans except that a recipient of one of these scholarship loans may receive credit upon the amount due by reason of the loan as provided in G.S. 115C-471(5) or by working in a nonteaching position in the North Carolina public schools or by working in a licensed day child care center in North Carolina."

Section 41. G.S. 120-70.71 reads as rewritten:

"§ 120-70.71. *Powers and duties.*

The Commission shall study State government policy and programs affecting the family, specifically addressing family issues from the point of existing laws, governmental programs needed or already functioning, and current family life issues. The Commission shall work in close collaboration with various agencies and programs dealing with the family. Among the issues the Commission may consider studying are the following:

- (1) The feasibility of establishing model projects that would be located primarily in low-income, high dropout rate communities in North Carolina:
 - a. To teach adults in the family to read; and
 - b. To provide after school care for school-aged children using volunteers who could be retirees in the provision of services;
- (2) The fiscal impact of a cash stipend created by a tax deduction or by industry dollars to promote literacy or the obtainment of a General Education Development Degree for persons who are presently illiterate or outside the school system;
- (3) The need for day care for children and senior citizens, an increase in Aid to Families with Dependent Children payments and eligibility requirements, coordination of State law with federal welfare reform programs, in-home services for the elderly, additional funding for adult day care, and incentives for industries to develop day child care programs;
- (4) The relationship between the decline of real income and the tax structure, college tax credits, the minimum wage, and welfare support systems;
- (5) The State's efforts in the areas of adolescent pregnancy and teaching about adolescent sexuality;
- (6) A comprehensive review of State and federal programs encouraging business and industry to provide adequate child care for their employees;
- (7) An analysis of what the State is currently doing to encourage North Carolina businesses and industry to provide adequate child care for their employees;
- (8) A survey of North Carolina employers that presently provide child care options for their employees and what types of options they provide;

- (9) A comprehensive study of the types of tax incentives and other incentives that would encourage North Carolina businesses -- especially those that have 50 or more employees -- to either provide on-site child care facilities or provide other child care options and the cost to the State of these tax incentives;
- (10) Recommendations of what the State could be doing to encourage North Carolina businesses to provide on-site child care facilities or other child care options for their employees;
- (11) Recommendations of a comprehensive policy for North Carolina to encourage businesses within the State to provide on-site child care facilities or other child care options for their employees;
- (12) The concept of requiring coverage of child health supervision services in all health insurance policies sold or delivered within the State;
- (13) The issue of domestic violence; and
- (14) The problem of suicide among the youth of the State."

Section 42. G.S. 120-123(44) reads as rewritten:

"(44) The Child Day-Care Care Commission, as established by G.S. 143B-168.3."

Section 43. G.S. 122C-22(a) reads as rewritten:

"(a) The following are excluded from the provisions of this Article and are not required to obtain licensure under this Article:

- (1) Physicians and psychologists engaged in private office practice;
- (2) General hospitals licensed under Article 5 of Chapter 131E of the General Statutes, that operate special units for the mentally ill, developmentally disabled, or substance abusers;
- (3) State and ~~federally-operated~~ federally operated facilities;
- (4) Adult care homes licensed under Chapter 131D of the General Statutes;
- (5) Developmental child ~~day~~ care centers licensed under Article 7 of Chapter 110 of the General Statutes;
- (6) Persons subject to licensure under rules of the Social Services Commission;
- (7) Persons subject to rules and regulations of the Division of Vocational Rehabilitation Services; and
- (8) Facilities that provide occasional respite care for not more than two individuals at a time; provided that the primary purpose of the facility is other than as defined in G.S. 122C-3(14)."

Section 44. G.S. 122E-8(d) reads as rewritten:

"(d) The Agency shall also give priority to applications which include provisions such as:

- (1) Interest rates and loan terms more favorable than those conventionally offered;
- (2) Developer contributions to project costs;
- (3) Local government contributions to project costs, including infrastructure improvements, contributions of publicly owned land for housing development, and the provision of funds for such services as day child care and job training;

- (4) Coordination with other housing and/or infrastructure investments in the community;
- (5) Provision of housing to the disabled, single parent households, or rurally isolated households; or
- (6) Provision of housing to persons whose current housing fails to meet basic standards of health and safety and who have little prospect of improving the condition of their housing except by residing in an eligible project receiving assistance under this Chapter."

Section 45. G.S. 130A-131.5 reads as rewritten:

"§ 130A-131.5. *Commission to adopt rules.*

(a) For the protection of the public health, the Commission shall adopt rules for the prevention and control of lead poisoning in children. The rules shall include provisions for:

- (1) Reporting by laboratories of elevated blood lead levels in children less than six years of age; the rules shall specify the public health agency to which reports shall be made, and shall establish when a blood lead level is considered to be elevated. The rules shall further provide the specific information to be included in the reports, the time limits for reporting, and the form in which reports shall be submitted;
- (2) Investigation by the Department to determine the source of elevated blood lead levels;
- (3) Identification of lead poisoning hazards;
- (4) Examination and testing of children less than six years of age who are reasonably suspected of having elevated blood lead levels; and
- (5) Abatement of lead poisoning hazards in dwellings, schools and day child care facilities centers determined by the Department to be a potential source of an elevated blood lead level in a child less than six years of age.

(b) Abatement orders issued by the Department pursuant to this section shall require elimination of the lead poisoning hazard. Removal of children from the dwelling, school, or day child care facility center shall not constitute abatement if the property continues to be used for a dwelling, school, or day child care facility center."

Section 46. G.S. 130A-136 reads as rewritten:

"§ 130A-136. *School principals and ~~day-care~~ child care operators to report.*

A principal of a school and an operator of a day-care child care facility, as defined in G.S. 110-86(3), who has reason to suspect that a person within the school or day-care child care facility has a communicable disease or communicable condition declared by the Commission to be reported, shall report information required by the Commission to the local health director of the county or district in which the school or facility is located."

Section 47. G.S. 130A-155 reads as rewritten:

"§ 130A-155. *Submission of certificate to ~~day-care~~ child care facility and school authorities; record maintenance; reporting.*

(a) No child shall attend a school (K-12), whether public, private or religious, or a day-care child care facility as defined in G.S. 110-86(3), unless a certificate of immunization indicating that the child has received the

immunizations required by G.S. 130A-152 is presented to the school or facility. The parent, guardian, or responsible person must present a certificate of immunization on the child's first day of attendance to the principal of the school or operator of the facility, as defined in G.S. 110-86(7). If a certificate of immunization is not presented on the first day, the principal or operator shall present a notice of deficiency to the parent, guardian or responsible person. The parent, guardian or responsible person shall have 30 calendar days from the first day of attendance to obtain the required immunization for the child. If the administration of vaccine in a series of doses given at medically approved intervals requires a period in excess of 30 calendar days, additional days upon certification by a physician may be allowed to obtain the required immunization. Upon termination of 30 calendar days or the extended period, the principal or operator shall not permit the child to attend the school or facility unless the required immunization has been obtained.

(b) The school or ~~day-care~~ child care facility shall maintain on file immunization records for all children attending the school or facility which contain the information required for a certificate of immunization as specified in G.S. 130A-154. These certificates shall be open to inspection by the Department and the local health department during normal business hours. When a child transfers to another school or facility, the school or facility which the child previously attended shall, upon request, send a copy of the child's immunization record at no charge to the school or facility to which the child has transferred.

(c) Within 60 calendar days after the commencement of a new school year, the school shall file an immunization report with the Department. The ~~day-care~~ child care facility shall file an immunization report annually with the Department. The report shall be filed on forms prepared by the Department and shall state the number of children attending the school or facility, the number of children who had not obtained the required immunization within 30 days of their first attendance, the number of children who received a medical exemption and the number of children who received a religious exemption.

(d) Any adult who attends school (K-12), whether public, private or religious, shall obtain the immunizations required in G.S. 130A-152 and shall present to the school a certificate in accordance with this section. The physician or local health department administering a required vaccine to the adult shall give a certificate of immunization to the person. The certificate shall state the person's name, address, date of birth and sex; the number of doses of the vaccine given; the date the doses were given; the name and addresses of the physician or local health department administering the required immunization; and other relevant information required by the Commission."

Section 48. The heading for Article 3E, Chapter 143 of the General Statutes, reads as rewritten:

"ARTICLE 3E.

State/Public School Child Day Care Contracts."

Section 49. G.S. 143-64.50 reads as rewritten:

"§ 143-64.50. *State/public school-contracted on-, near-site day child care facilities; location authorization; contract for program services authorization.*

State agencies and local boards of education may contract with any city, county, or other political subdivision of the State, governmental or private agency, person, association, or corporation to establish child day care services in State buildings and public schools. If the child day care program is located in a State building that is not used for legislative activity, the procedure for approving the location of the program shall be pursuant to G.S. 143-341(4). If the child day care program is located in a State building used for legislative activity, the procedure for approving the location of the program shall be pursuant to G.S. 120-32.1. If the child day care program is located in any other State building, the procedure for contracting for child day care services shall be pursuant to G.S. 143-49(3). If the child day care program is located in a State building used for legislative activity, the procedure for contracting for child day care services shall be pursuant to G.S. 120-32(4).

Contracts for services awarded pursuant to this section are exempt from the provisions of G.S. 66-58(a) and the contract may provide for payment of rent by the lessee or the operator of the facility."

Section 50. G.S. 143-64.51 reads as rewritten:

"§ 143-64.51. *State/public school-contracted child day care facilities; licensing requirements.*

All child day care facilities established pursuant to this Article shall be licensed and regulated under the provisions of Article 7 of Chapter 110 of the General Statutes, entitled "Day 'Child Care Facilities.'"

Section 51. G.S. 143-64.52 reads as rewritten:

"§ 143-64.52. *State/public school-contracted child day care facilities; limitation of State/local board liability.*

The operators of the child day care facilities established pursuant to this Article shall assume all financial and legal responsibility for the operation of the programs and shall maintain adequate insurance coverage for the operations taking place in the facilities. Neither the operator or any of the staff of the facilities are considered State employees or local board of education employees by virtue of this Article alone. The State or the local boards of education are financially and legally responsible only for the maintenance of the building."

Section 52. G.S. 143-576.2(b) reads as rewritten:

"(b) Each Local Team shall consist of the following persons:

- (1) The director of the county department of social services, and a member of the director's staff;
- (2) A local law enforcement officer, appointed by the board of county commissioners;
- (3) An attorney from the district attorney's office, appointed by the district attorney;
- (4) The executive director of the local community action agency, as defined by the Division of Economic Opportunity, Department of Human Resources, or the executive director's designee;
- (5) The superintendent of each local school administrative unit located in the county, or the superintendent's designee;

- (6) A member of the county board of social services, appointed by the chair of that board;
- (7) A local mental health professional, appointed by the director of the area authority established under Chapter 122C of the General Statutes;
- (8) The local guardian ad litem coordinator, or the coordinator's designee;
- (9) The director of the local department of public health; and
- (10) A local health care provider, appointed by the local board of health.

In addition, a Local Team that reviews the records of additional child fatalities shall include the following four additional members:

- (1) An emergency medical services provider or firefighter, appointed by the board of county commissioners;
- (2) A district court judge, appointed by the chief district judge in that district;
- (3) A county medical examiner, appointed by the Chief Medical Examiner;
- (4) A representative of a local ~~day~~ child care facility or Head Start program, appointed by the director of the county department of social services; and
- (5) A parent of a child who died before reaching the child's eighteenth birthday, to be appointed by the board of county commissioners.

The Team Coordinator shall serve as an ex officio member of each Local Team that reviews the records of additional child fatalities. The board of county commissioners may appoint a maximum of five additional members to represent county agencies or the community at large to serve on any Local Team. Vacancies on a Local Team shall be filled by the original appointing authority."

Section 53. G.S. 143-599 reads as rewritten:

"§ 143-599. *Exemptions.*

All of the following facilities shall be exempt from the provisions of this Article:

- (1) Any primary or secondary school or ~~day~~ child care center, except for a teacher's lounge.
- (2) An enclosed elevator.
- (3) Public school bus.
- (4) Hospital, nursing home, rest home, and State facility operated under the authority of G.S. 122C-181.
- (5) Local health department.
- (6) Any nonprofit organization or corporation whose primary purpose is to discourage the use of tobacco products by the general public.
- (7) Tobacco manufacturing, processing, and administrative facilities."

Section 54. G.S. 143B-138 reads as rewritten:

"§ 143B-138. *Department of Human Resources — functions and organization.*

(a) Repealed by Session Laws 1989, c. 727, s. 5.

(b) All functions, powers, duties, and obligations heretofore vested in commissions, boards, councils, committees, or subunits of the Department

of Human Resources which are not transferred by G.S. 143B-279.3 shall continue to be vested in the Department of Human Resources. These shall include, but are not limited to, the following:

- (1) Division of Aging.
- (2) Respite Care Program.
- (3) Governor's Advisory Council on Aging.
- (4) Division of Services for the Blind.
- (5) Commission for the Blind.
- (6) Professional Advisory Committee.
- (7) Consumer and Advocacy Advisory Committee for the Blind.
- (8) Division of Medical Assistance.
- (9) Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.
- (10) Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services.
- (11) Division of Social Services.
- (12) Social Services Commission.
- (13) Division of Facility Services.
- (14) Medical Care Commission.
- (15) ~~Child Day-Care~~ Child Care Commission.
- (16) Emergency Medical Services Advisory Council.
- (17) Division of Vocational Rehabilitation.
- (18) Division of Youth Services.
- (19) Division of Schools for the Deaf and the Blind.
- (20) Board of Directors of the Governor Morehead School.
- (21) Board of Directors for the North Carolina Schools for the Deaf.
- (22) North Carolina Council for the Hearing Impaired.
- (23) Council on Developmental Disabilities.
- (24) North Carolina Council on the Holocaust.

(c) All functions, powers, duties, and obligations heretofore vested in the Economic Opportunity Division of the Department of Natural Resources and Community Development are hereby transferred to and vested in the Department of Human Resources by a Type I transfer as defined in G.S. 143A-6.

(d) The Department of Human Resources is vested with all other functions, powers, duties, and obligations as are conferred by the Constitution and laws of this State."

Section 55. G.S. 143B-153(8) reads as rewritten:

"(8) The Commission may establish by regulation, except for Title XX services provided solely through the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, rates or fees for:

- a. A fee schedule for the payment of the costs of necessary ~~day~~ child care in licensed facilities and registered plans for minor children of needy families.
- b. A fee schedule for the payment by recipients for services which are established in accordance with Title XX of the Social Security Act and implementing regulations; and

- c. The payment of an administrative fee not to exceed two hundred dollars (\$200.00) to be paid by public or nonprofit agencies which employ students under the Plan Assuring College Education (PACE) program.
- d. Child support enforcement services as defined by G.S. 110-130.1."

Section 56. G.S. 143B-168.3 reads as rewritten:

"§ 143B-168.3. *Child Day-Care Care Commission — powers and duties.*

The Child Day-Care Licensing Commission of the Department of Administration is transferred, recodified, and renamed the Child ~~Day-Care~~ Care Commission of the Department of Human Resources with the power and duty to adopt rules to be followed in the licensing and operation of child day care facilities and ~~child day care homes~~ as provided by Article 7 of Chapter 110 of the General Statutes.

(a) The Child ~~Day-Care~~ Care Commission shall adopt rules:

- (1) For the issuance of licenses to any day child care facility; and
- (2) To ~~register child day care homes and to~~ adopt rules as provided by Article 7 of Chapter 110 of the General Statutes of the State of North Carolina, and to establish standards for 'AA' enhanced program licenses, as authorized by G.S. 110-88(7).

(b) The Commission shall adopt rules consistent with the provisions of this Chapter. All rules not inconsistent with the provisions of this Chapter heretofore adopted by the Child Day-Care Licensing Commission shall remain in full force and effect unless and until repealed or superseded by action of the Child ~~Day-Care~~ Care Commission. All rules and regulations adopted by the Commission shall be enforced by the Department of Human Resources."

Section 57. G.S. 143B-168.4(a) reads as rewritten:

"§ 143B-168.4. *Child Day-Care Care Commission — members; selection; quorum.*

(a) The Child ~~Day-Care~~ Care Commission of the Department of Human Resources shall consist of 15 members. Seven of the members shall be appointed by the Governor and eight by the General Assembly, four upon the recommendation of the President Pro Tempore of the Senate, and four upon the recommendation of the Speaker of the House of Representatives. Four of the members appointed by the Governor, two by the General Assembly on the recommendation of the President Pro Tempore of the Senate, and two by the General Assembly on the recommendation of the Speaker of the House of Representatives, shall be members of the public who are not employed in, or providing, day child care and who have no financial interest in a day child care ~~facility or home~~ facility. Two of the foregoing public members appointed by the Governor, one of the foregoing public members recommended by the President Pro Tempore of the Senate, and one of the foregoing public members recommended by the Speaker of the House of Representatives shall be parents of children receiving day child care services. Of the remaining two public members appointed by the Governor, one shall be a pediatrician currently licensed to practice in North Carolina. Three of the members appointed by the Governor shall be day child care providers, one of whom shall be affiliated with a for profit day

child care facility, center, one of whom shall be affiliated with a for profit day family child care home, and one of whom shall be affiliated with a nonprofit home or facility. Two of the members appointed by the General Assembly on the recommendation of the President Pro Tempore of the Senate, and two by the General Assembly on recommendation of the Speaker of the House of Representatives, shall be day child care providers, one affiliated with a for profit day child care facility or home, facility, and one affiliated with a nonprofit day child care facility or home, facility. None may be employees of the State."

Section 58. G.S. 143B-168.5 reads as rewritten:

"§ 143B-168.5. *Child Day Care -- special unit.*

There is established within the Department of Human Resources a special unit to deal primarily with violations involving child abuse and neglect in child day care arrangements. The Child Day Care Commission shall make rules for the investigation of reports of child abuse or neglect and for administrative action when child abuse or neglect is substantiated, pursuant to G.S. 110-88(6a), 110-105, and ~~110-105.1, 110-105.2.~~"

Section 59. G.S. 143B-168.14 reads as rewritten:

"§ 143B-168.14. *Local partnerships; conditions.*

- (a) In order to receive State funds, the following conditions shall be met:
- (1) Each local demonstration project shall be coordinated by a new local partnership responsible for developing a comprehensive, collaborative, long-range plan of services to children and families in the service-delivery area. The board of directors of each local partnership shall consist of members including representatives of public and private nonprofit health and human service agencies, day child care providers, the business community, foundations, county and municipal governments, local education units, and families. The Department, in cooperation with the North Carolina Partnership, may specify in its requests for applications the local agencies that shall be represented on a local board of directors. No existing local, private, nonprofit 501(c)(3) organization, other than one established on or after July 1, 1993, and that meets the guidelines for local partnerships as established under this Part, shall be eligible to apply to serve as the local partnership for the purpose of this Part.
 - (2) Each local partnership shall agree to adopt procedures for its operations that are comparable to those of Article 33C of Chapter 143 of the General Statutes, the Open Meetings Law, and Chapter 132 of the General Statutes, the Public Records Law, and provide for enforcement by the Department.
 - (3) Each local partnership shall adopt procedures to ensure that all personnel who provide services to young children and their families under this Part know and understand their responsibility to report suspected child abuse, neglect, or dependency, as defined in G.S. 7A-517.
 - (4) Each local partnership shall participate in the uniform, standard fiscal accountability plan developed and adopted by the North Carolina Partnership.

(b) Each local partnership shall be subject to audit and review by the State Auditor under Article 5A of Chapter 147 of the General Statutes. The State Auditor shall conduct annual financial and compliance audits of the local partnerships."

Section 60. G.S. 143B-168.15 reads as rewritten:

"§ 143B-168.15. *Use of State funds.*

(a) State funds allocated to local projects for services to children and families shall be used to meet assessed needs, expand coverage, and improve the quality of these services. The local plan shall address the assessed needs of all children to the extent feasible. It is the intent of the General Assembly that the needs of both young children below poverty who remain in the home, as well as the needs of young children below poverty who require services beyond those offered in child care settings, be addressed. Therefore, as local partnerships address the assessed needs of all children, they should devote an appropriate amount of their State allocations, considering these needs and other available resources, to meet the needs of children below poverty and their families.

(b) Depending on local, regional, or statewide needs, funds may be used to support activities and services that shall be made available and accessible to providers, children, and families on a voluntary basis. Of the funds allocated to local partnerships that are designated by the Secretary for direct services, seventy-five percent (75%) shall be used for any one or more of the following activities and services:

(1) Child day care services, including:

- a. Child day care subsidies to reduce waiting lists;
- b. Raising the county child day care subsidy rate to the State market rate, if applicable, in return for improvements in the quality of child day care services;
- c. Raising the income eligibility for child day care subsidies to seventy-five percent (75%) of the State median family income;
- d. Start-up funding for child day care providers;
- e. Assistance to enable child day care providers to conform to licensing and building code requirements;
- f. Child day care resources and referral services;
- g. Enhancement of the quality of child day care provided;
- h. Technical assistance for child day care providers;
- i. Quality grants for child day care centers or family child day care homes;
- j. Expanded services or enhanced rates for children with special needs;
- k. Head Start services;
- l. Development of comprehensive child day care services that include child health and family support;
- m. Activities to reduce staff turnover;
- n. Activities to serve children with special needs;
- o. Transportation services related to providing child day care services;
- p. Evaluation of plan implementation of child day care services; and

- q. Needs and resources assessments for child day care services.
- (2) Family- and child-centered services, including early childhood education and child development services, including:
 - a. Enhancement of the quality of family- and child-centered services provided;
 - b. Technical assistance for family- and child-centered services;
 - c. Needs and resource assessments for family- and child-centered services;
 - d. Home-centered services; and
 - e. Evaluation of plan implementation of family- and child-centered services.
- (3) Other appropriate activities and services for child day care providers and for family- and child-centered services, including:
 - a. Staff and organizational development, leadership and administrative development, technology assisted education, and long-range planning; and
 - b. Procedures to ensure that infants and young children receive needed health, immunization, and related services.
- (c) Long-term plans for local projects that do not receive their full allocation in the first year, other than those selected in 1993, should consider how to meet the assessed needs of low-income children and families within their neighborhoods or communities. These plans also should reflect a process to meet these needs as additional allocations and other resources are received.
- (d) State funds designated for start-up and related activities may be used for capital expenses or to support activities and services for children, families, and providers. State funds designated to support direct services for children, families, and providers shall not be used for major capital expenses unless the North Carolina Partnership approves this use of State funds based upon a finding that a local partnership has demonstrated that (i) this use is a clear priority need for the local plan, (ii) it is necessary to enable the local partnership to provide services and activities to underserved children and families, and (iii) the local partnership will not otherwise be able to meet this priority need by using State or federal funds available to that local partnership. The funds approved for capital projects in any two consecutive fiscal years may not exceed ten percent (10%) of the total funds for direct services allocated to a local partnership in those two consecutive fiscal years.
- (e) State funds allocated to local partnerships shall not supplant current expenditures by counties on behalf of young children and their families, and maintenance of current efforts on behalf of these children and families shall be sustained. State funds shall not be applied without the Secretary's approval where State or federal funding sources, such as Head Start, are available or could be made available to that county.
- (f) Local partnerships may carry over funds from one fiscal year to the next, subject to the following conditions:
 - (1) Local partnerships in their first year of receiving direct services funding may, on a one-time basis only, carry over any unspent funds to the subsequent fiscal year.

- (2) Any local partnership may carry over any unspent funds to the subsequent fiscal year, subject to the limitation that funds carried over may not exceed the increase in funding the local partnership received during the current fiscal year over the prior fiscal year.

(g) Not less than thirty percent (30%) of each local partnership's direct services allocation shall be used to expand child day care subsidies. To the extent practicable, these funds shall be used to enhance the affordability, availability, and quality of child day care services as described in this section."

Section 61. G.S. 143B-178 reads as rewritten:

"§ 143B-178. *Council on Developmental Disabilities — definitions.*

The following definitions apply to this Chapter:

- (1) The term 'developmental disability' means a severe, chronic disability of a person which:
- a. Is attributable to a mental or physical impairment or combination of mental and physical impairments;
 - b. Is manifested before the person attains age 22, unless the disability is caused by a traumatic head injury and is manifested after age 22;
 - c. Is likely to continue indefinitely;
 - d. Results in substantial functional limitations in three or more of the following areas of major life activity: (i) self-care, (ii) receptive and expressive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, and (vii) economic self-sufficiency; and
 - e. Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated.
- (2) The term 'services for persons with developmental disabilities,' as it is used in this Article, means:
- a. Alternative community living arrangement services, employment related activities, child development services, and case management services; and
 - b. Any other specialized services or special adaptations of generic services including diagnosis, evaluation, treatment, personal care, day child care, adult care, special living arrangements, training, education, sheltered employment, recreation and socialization, counseling of the individual with such a disability and of his family, protective and other social and sociolegal services, information and referral services, follow-along services, nonvocational social-developmental services, and transportation services necessary to assure delivery of services to persons with developmental disabilities, and services to promote and coordinate activities to prevent developmental disabilities."

Section 62. G.S. 153A-234 reads as rewritten:

"§ 153A-234. *Fire marshal.*

A county may appoint a fire marshal and employ persons as his assistants. A county may also impose any duty that might be imposed on a fire marshal on any other officer or employee of the county. The board of commissioners shall set the duties of the fire marshal, which may include but are not limited to:

- (1) Advising the board on improvements in the fire-fighting or fire prevention activities under the county's supervision or control.
- (2) Coordinating fire-fighting and training activities under the county's supervision or control.
- (3) Coordinating fire prevention activities under the county's supervision or control.
- (4) Assisting incorporated volunteer fire departments in developing and improving their fire-fighting or fire prevention capabilities.
- (5) Making fire prevention inspections, including the periodic inspections and reports of school buildings required by Chapter 115 and the inspections of ~~day-care~~ child care facilities required by Chapter 110. A fire marshal shall not make electrical inspections unless he is qualified to do so under G.S. 153A-351."

Section 63. Except as otherwise provided in this act, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law upon approval of the Governor at 11:04 a.m. on the 16th day of September, 1997.

H.B. 769

CHAPTER 507

AN ACT TO PROVIDE THAT CERTAIN STUDENTS WHO DROP OUT OF SCHOOL OR DO NOT MAKE PROGRESS TOWARD GRADUATION SHALL NOT BE ELIGIBLE FOR DRIVERS PERMITS OR LICENSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-11, as amended by Chapter 16 of the 1997 Session Laws, reads as rewritten:

"§ 20-11. *Issuance of limited learner's permit and provisional drivers license to person who is less than 18 years old.*

(a) Process. -- Safe driving requires instruction in driving and experience. To ensure that a person who is less than 18 years old has both instruction and experience before obtaining a drivers license, driving privileges are granted first on a limited basis and are then expanded in accordance with the following process:

- (1) Level 1. -- Driving with a limited learner's permit.
- (2) Level 2. -- Driving with a limited provisional license.
- (3) Level 3. -- Driving with a full provisional license.

A permit or license issued under this section must have a color background or border that indicates the level of driving privileges granted by the permit or license.

(b) Level 1. -- A person who is at least 15 years old but less than 18 years old may obtain a limited learner's permit if the person meets all of the following requirements:

- (1) Passes a course of driver education prescribed in G.S. 20-88.1 or a course of driver instruction at a licensed commercial driver training school.
- (2) Passes a written test administered by the Division.
- (3) Has a driving eligibility certificate or a high school diploma or its equivalent.

(c) Level 1 Restrictions. -- A limited learner's permit authorizes the permit holder to drive a specified type or class of motor vehicle only under the following conditions:

- (1) The permit holder must be in possession of the permit.
- (2) A supervising driver must be seated beside the permit holder in the front seat of the vehicle when it is in motion. No person other than the supervising driver can be in the front seat.
- (3) For the first six months after issuance, the permit holder may drive only between the hours of 5:00 a.m. and 9:00 p.m.
- (4) After the first six months after issuance, the permit holder may drive at any time.
- (5) Every person occupying the vehicle being driven by the permit holder must have a safety belt properly fastened about his or her body, or be restrained by a child passenger restraint system as provided in G.S. 20-137.1(a), when the vehicle is in motion.

(d) Level 2. -- A person who is at least 16 years old but less than 18 years old may obtain a limited provisional license if the person meets all of the following requirements:

- (1) Has held a limited learner's permit issued by the Division for at least 12 months.
- (2) Has not been convicted of a motor vehicle moving violation or seat belt infraction during the preceding six months.
- (3) Passes a road test administered by the Division.
- (4) Has a driving eligibility certificate or a high school diploma or its equivalent.

(e) Level 2 Restrictions. -- A limited provisional license authorizes the license holder to drive a specified type or class of motor vehicle only under the following conditions:

- (1) The license holder must be in possession of the license.
- (2) The license holder may drive without supervision in any of the following circumstances:
 - a. From 5:00 a.m. to 9:00 p.m.
 - b. When driving to or from work.
 - c. When driving to or from an activity of a volunteer fire department, volunteer rescue squad, or volunteer emergency medical service, if the driver is a member of the organization.
- (3) The license holder may drive with supervision at any time. When the license holder is driving with supervision, the supervising driver must be seated beside the license holder in the front seat of the vehicle when it is in motion. The supervising driver need not

be the only other occupant of the front seat, but must be the person seated next to the license holder.

- (4) Every person occupying the vehicle being driven by the license holder must have a safety belt properly fastened about his or her body, or be restrained by a child passenger restraint system as provided in G.S. 20-137.1(a), when the vehicle is in motion.

(f) Level 3. -- A person who is at least 16 years old but less than 18 years old may obtain a full provisional license if the person meets all of the following requirements:

- (1) Has held a limited provisional license issued by the Division for at least six months.
- (2) Has not been convicted of a motor vehicle moving violation or seat belt infraction during the preceding six months.
- (3) Has a driving eligibility certificate or a high school diploma or its equivalent.

A person who meets these requirements may obtain a full provisional license by mail.

(g) Level 3 Restrictions. -- The restrictions on Level 1 and Level 2 drivers concerning time of driving, supervision, and passenger limitations do not apply to a full provisional license.

(h) Out-of-State Exceptions. -- A person who is at least 16 years old but less than 18 years old, who was a resident of another state and has an unrestricted drivers license issued by that state, and who becomes a resident of this State may obtain one of the following: following upon the submission of a driving eligibility certificate or a high school diploma or its equivalent:

- (1) A temporary permit, if the person has not completed a drivers education program that meets the requirements of the Superintendent of Public Instruction but is currently enrolled in a drivers education program that meets these requirements. A temporary permit is valid for the period specified in the permit and authorizes the holder of the permit to drive a specified type or class of motor vehicle when in possession of the permit, subject to any restrictions imposed by the Division concerning time of driving, supervision, and passenger limitations. The period must end within 10 days after the expected completion date of the drivers education program in which the applicant is enrolled.
- (2) A full provisional license, if the person has completed a drivers education program that meets the requirements of the Superintendent of Public Instruction, has held the license issued by the other state for at least 12 months, and has not been convicted during the preceding six months of a motor vehicle moving violation, a seat belt infraction, or an offense committed in another jurisdiction that would be a motor vehicle moving violation or seat belt infraction if committed in this State.
- (3) A limited provisional license, if the person has completed a drivers education program that meets the requirements of the Superintendent of Public Instruction but either did not hold the license issued by the other state for at least 12 months or was convicted during the preceding six months of a motor vehicle

moving violation, a seat belt infraction, or an offense committed in another jurisdiction that would be a motor vehicle moving violation or seat belt infraction if committed in this State.

(i) Application. -- An application for a permit or license authorized by this section must be signed by both the applicant and another person. That person must be the applicant's parent or guardian if the parent or guardian resides in this State and is qualified to be a supervising driver. In all other circumstances, that person must be an adult approved by the Division.

(j) Duration and Fee. -- A limited learner's permit expires on the eighteenth birthday of the permit holder. A limited provisional license expires on the eighteenth birthday of the license holder. A full provisional license expires on the date set under G.S. 20-7(f). The fee for a limited learner's permit or a limited provisional license is ten dollars (\$10.00). The fee for a full provisional license is the amount set under G.S. 20-7(i).

(k) Supervising Driver. -- A supervising driver must be a parent or guardian of the permit holder or license holder if a parent or guardian signed the application for the permit or license. If a parent or guardian did not sign the application, the supervising driver must be the adult who signed the application. A supervising driver must be a licensed driver who has been licensed to drive for at least five years.

(l) Violations. -- It is unlawful for the holder of a limited learner's permit, a temporary permit, or a limited provisional license to drive a motor vehicle in violation of the restrictions that apply to the permit or license. Failure to comply with a restriction concerning the time of driving or the presence of a supervising driver in the vehicle constitutes operating a motor vehicle without a license. Failure to comply with any other restriction, including seating and passenger limitations, is an infraction punishable by a monetary penalty as provided in G.S. 20-176.

(m) Insurance Status. -- The holder of a limited learner's permit is not considered a licensed driver for the purpose of determining the inexperienced operator premium surcharge under automobile insurance policies.

(n) Driving Eligibility Certificate. -- A person who desires to obtain a permit or license issued under this section and who does not have a high school diploma or its equivalent must have a driving eligibility certificate. A driving eligibility certificate must meet the following conditions:

- (1) The person who is required to sign the certificate under subdivision (4) of this subsection must show that he or she has determined that one of the following requirements is met:
 - a. The person is currently enrolled in school and is making progress toward obtaining a high school diploma or its equivalent.
 - b. A substantial hardship would be placed on the person or the person's family if the person does not receive a certificate.
 - c. The person cannot make progress toward obtaining a high school diploma or its equivalent.
- (2) It must be on a form approved by the Division.
- (3) It must be dated within 30 days of the date the person applies for a permit or license issuable under this section.

- (4) It must be signed by the applicable person named below:
- a. The principal, or the principal's designee, of the public school in which the person is enrolled.
 - b. The administrator, or the administrator's designee, of the nonpublic school in which the person is enrolled.
 - c. The person who provides the academic instruction in the home school in which the person is enrolled.
 - d. The designee of the board of directors of the charter school in which the person is enrolled.
 - e. The president, or the president's designee, of the community college in which the person is enrolled.

Notwithstanding any other law, the decision concerning whether a driving eligibility certificate was properly issued or improperly denied shall be appealed only as provided under the rules adopted in accordance with G.S. 115C-12(27), G.S. 115D-5(a3), or G.S. 115C-566, whichever is applicable, and may not be appealed under this Chapter."

Section 2. G.S. 20-13.2 is amended by adding a new subsection to read:

"(c1) The Division must revoke the permit or license of a person under the age of 18 if the proper school authority notifies the Division that the person no longer meets the requirements for a driving eligibility certificate under G.S. 20-11(n). Notwithstanding subsection (d) of this section, the length of revocation must last until the person's eighteenth birthday or until the Division restores the permit or license under this subsection. The Division must restore a person's permit or license before the person's eighteenth birthday, if the person submits to the Division one of the following:

- (1) A high school diploma or its equivalent.
- (2) A driving eligibility certificate as required under G.S. 20-11(n).

Notwithstanding any other law, the decision concerning whether a driving eligibility certificate was properly issued or improperly denied shall be appealed only as provided under the rules adopted in accordance with G.S. 115C-12(27), G.S. 115D-5(a3), or G.S. 115C-566, whichever is applicable, and may not be appealed under this Chapter."

Section 3. G.S. 115C-12 is amended by adding a new subdivision to read:

"(27) Duty to Develop Rules for Issuance of Driving Eligibility Certificates. -- The State Board of Education shall issue rules defining what is equivalent to a high school diploma for the purposes of G.S. 20-11 and G.S. 20-13.2. These rules shall apply to all educational programs offered in the State by public schools, charter schools, nonpublic schools, or community colleges.

The State Board also shall issue rules for the procedures a person who is or was enrolled in a public school, in a charter school, or in a nonpublic school accredited by the Board must follow and the requirements that person must meet to obtain a driving eligibility certificate. The person required under G.S. 20-11(n) to sign the driving eligibility certificate must provide

the certificate if he or she determines that one of the following requirements is met:

- a. The person seeking the certificate is currently enrolled in school and is making progress toward obtaining a high school diploma or its equivalent.
- b. A substantial hardship would be placed on the person seeking the certificate or the person's family if the person does not receive the certificate.
- c. The person seeking the certificate cannot make progress toward obtaining a high school diploma or its equivalent.

These rules shall provide for an appeal to an appropriate education authority by a person who is denied a driving eligibility certificate. The State Board also shall develop policies as to when it is appropriate to notify the Division of Motor Vehicles that a person who is or was enrolled in a public school, in a charter school, or in a nonpublic school accredited by the Board no longer meets the requirements for a driving eligibility certificate."

Section 4. G.S. 115D-5 is amended by adding the following new subsection to read:

"(a3) The State Board of Community Colleges shall issue rules for the procedures a person who is or was enrolled in a community college must follow and the requirements that person must meet to obtain a driving eligibility certificate. The person required under G.S. 20-11(n) to sign the driving eligibility certificate must provide the certificate if he or she determines that one of the following requirements is met:

- (1) The person seeking the certificate is currently enrolled in school and is making progress toward obtaining a high school diploma or its equivalent.
- (2) A substantial hardship would be placed on the person seeking the certificate or the person's family if the person does not receive the certificate.
- (3) The person seeking the certificate cannot make progress toward obtaining a high school diploma or its equivalent.

The rules shall provide for an appeal through the grievance procedures established by the board of trustees of each community college by a person who is denied a driving eligibility certificate. The State Board also shall develop policies as to when it is appropriate to notify the Division of Motor Vehicles that a person who is or was enrolled in a community college no longer meets the requirements for a driving eligibility certificate. The State Board also shall adopt guidelines to assist the presidents of community colleges in their designation of representatives to sign driving eligibility certificates."

Section 5. Article 39 of Chapter 115C of the General Statutes is amended by adding the following new Part:

"Part 4. Miscellaneous Requirements.

"§ 115C-566. Driving eligibility certificates; requirements.

The Secretary of Administration, upon consideration of the advice of the Division of Nonpublic Education in the Office of the Governor and

representatives of nonpublic schools, shall issue rules for the procedures a person who is or was enrolled in a home school or in a nonpublic school that is not accredited by the State Board of Education must follow and the requirements that person must meet to obtain a driving eligibility certificate. The person required under G.S. 20-11(n) to sign the driving eligibility certificate must provide the certificate if he or she determines that one of the following requirements is met:

- (1) The person seeking the certificate is currently enrolled in school and is making progress toward obtaining a high school diploma or its equivalent.
- (2) A substantial hardship would be placed on the person seeking the certificate or the person's family if the person does not receive the certificate.
- (3) The person seeking the certificate cannot make progress toward obtaining a high school diploma or its equivalent.

The rules shall provide for an appeal to an appropriate educational entity by a person who is denied a driving eligibility certificate. The Division of Nonpublic Education also shall develop policies as to when it is appropriate to notify the Division of Motor Vehicles that a person who is or was enrolled in a home school or in a nonpublic school that is not accredited by the State Board of Education no longer meets the requirements for a driving eligibility certificate."

Section 6. The State Board of Education shall initiate and coordinate meetings with the Division of Nonpublic Education in the Office of the Governor, with representatives of nonpublic schools, and with the State Board of Community Colleges in order to develop coordinated rules, policies, and guidelines needed to implement this act. Before defining what is equivalent to a high school diploma for purposes of G.S. 115C-12(27), as amended in Section 3 of this act, the State Board of Education shall consult with the State Board of Community Colleges and with representatives of nonpublic schools as designated by the Division of Nonpublic Education in the Office of the Governor.

Section 7. The State Board of Education shall study the effectiveness of this act on the dropout rates and progress toward graduation of students under the age of 18 and shall report the results of this study to the Joint Legislative Education Oversight Committee and the Fiscal Research Division by November 15, 2002.

Section 8. This act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1. Every agency to which this act applies that is authorized to adopt rules to implement this act may adopt temporary rules to implement this act. This section shall continue in effect until all rules necessary to implement this act have become effective as either temporary or permanent rules.

Section 9. If any section or provision of this act is declared unconstitutional or invalid by the courts, the unconstitutional or invalid section or provision does not affect the validity of this act as a whole or any part of this act other than the part declared to be unconstitutional or invalid.

Section 10. Sections 1 and 2 of this act become effective August 1, 1998. The remainder of this act is effective when it becomes law. Sections

1 and 2 of this act do not apply to any person who holds a valid North Carolina limited learner's permit issued before December 1, 1997, who holds a valid North Carolina learner's permit issued before December 1, 1997, or who is a provisional licensee and holds a valid North Carolina drivers license issued before December 1, 1997.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law upon approval of the Governor at 10:20 a.m. on the 17th day of September, 1997.

S.B. 483

CHAPTER 508

AN ACT TO INCREASE THE AMOUNT PAID TO PHYSICIANS TO READ X-RAY FILMS FOR THE DUSTY TRADES PROGRAM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 97-72 reads as rewritten:

"§ 97-72. *Appointment of advisory medical committee; terms of office; duties and functions; salaries and expenses.*

(a) There shall be an advisory medical committee consisting of three members, who shall be licensed physicians in good professional standing and peculiarly qualified in the diagnosis or treatment of occupational diseases. They shall be appointed by the Industrial Commission with the approval of the Governor, and one of them shall be designated as chairman of the committee by the Industrial Commission. The members of committee shall be appointed to serve terms as follows: one for a term of two years, one for a term of four years, and one for a term of six years. Upon the expiration of each term as above mentioned the Industrial Commission shall appoint a successor for a term of six years; ~~years. except that the terms of the members first appointed shall expire June 30, 1936.~~ The function of the committee shall be to conduct examinations and make reports as required by G.S. 97-61.1 through 97-61.6 and 97-68 through 97-71, and to assist in any postmortem examinations provided for in G.S. 97-67 when so directed by the Industrial Commission. Members of the committee shall devote to the duties of the office so much of their time as may be required in the conducting of examinations with reasonable promptness, and they shall attend hearings as scheduled by the Industrial Commission when their attendance is desired for the purpose of examining and cross-examining them respecting any report or reports made by them.

(b) The members of the advisory medical committee shall be paid one hundred dollars (\$100.00) per month plus not more than ~~ten dollars (\$10.00)~~ forty dollars (\$40.00) per film examined. The fee per film shall be established by the Secretary of Environment, Health, and Natural Resources. Resources, as guided by the current Medicaid/Medicare reimbursement schedules for North Carolina.

(c) Notwithstanding any other provision of this Article, the Industrial Commission, in its discretion, may designate a qualified physician who is not a member of the advisory medical committee to perform an examination of an employee who has filed a claim for benefits for asbestosis or silicosis.

This physician shall file his reports in the same manner a member of the advisory medical committee files reports; and these reports shall be deemed reports of the advisory medical committee."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law upon approval of the Governor at 10:21 a.m. on the 17th day of September, 1997.

S.B. 488

CHAPTER 509

AN ACT TO AMEND THE PROCESS OF SELECTING THE CHAIR OF THE VOCATIONAL REHABILITATION ADVISORY COUNCIL TO CONFORM WITH FEDERAL LAW AND TO PROVIDE THAT THE CHAIR'S TERM SHALL NOT EXCEED THREE YEARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-548(c) reads as rewritten:

"(c) ~~The Governor shall designate as Chair of the Council one of the members of the Council.~~ The Council shall elect one of the voting members of the Council as Chair of the Council. The Chair's term is shall not exceed a single three-year term."

Section 2. This act becomes effective July 1, 1997.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law upon approval of the Governor at 10:23 a.m. on the 17th day of September, 1997.

S.B. 553

CHAPTER 510

AN ACT TO PROVIDE THAT THE STATE SHALL PAY THE COST OF ANY REQUIRED LEGAL ADVERTISING IT REQUIRES COUNTIES TO PLACE IN CONNECTION WITH ANY REFERENDUM PLACED ON THE BALLOT BY THE GENERAL ASSEMBLY; TO ALLOW A COUNTY BOARD OF ELECTIONS TO CONDUCT ONE-STOP VOTING ON ITS ELECTION-DAY VOTING EQUIPMENT AT THE COUNTY BOARD OF ELECTIONS OFFICE USING CURRENT EXCUSE REQUIREMENTS UNDER A PLAN APPROVED BY THE STATE BOARD OF ELECTIONS; AND TO ALLOW THE CATAWBA COUNTY BOARD OF ELECTIONS TO USE PAPER BALLOTS IN SECOND PRIMARY ELECTIONS WHERE VOTING SYSTEMS ARE USED IN THE FIRST PRIMARY ELECTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-33(8) reads as rewritten:

"(8) To provide for the issuance of all notices, advertisements, and publications concerning elections required by law. If the election is on a State bond issue, an amendment to the Constitution, or approval of an act submitted to the voters of the State, the State

Board of Elections shall reimburse the county boards of elections for their reasonable additional costs in placing such notices, advertisements, and publications. In addition, the county board of elections shall give notice at least 20 days prior to the date on which the registration books or records are closed that there will be a primary, general or special election, the date on which it will be held, and the hours the voting places will be open for voting in that election. The notice also shall describe the nature and type of election, and the issues, if any, to be submitted to the voters at that election. Notice shall be given by advertisement at least once weekly during the 20-day period in a newspaper having general circulation in the county and by posting a copy of the notice at the courthouse door. Notice may additionally be made on a radio or television station or both, but such notice shall be in addition to the newspaper and other required notice. This subdivision shall not apply in the case of bond elections called under the provisions of Chapter 159."

Section 2. G.S. 163-227.2 reads as rewritten:

"§ 163-227.2. Alternate procedures for requesting application for absentee ballot; "one-stop" voting procedure in board office.

(a) A person expecting to be absent from the county in which he is registered during the entire period that the polls are open on the day of an election in which absentee ballots are authorized or is eligible under G.S. 163-226(a)(2), 163-226(a)(3a), or 163-226(a)(4) may request an application for absentee ballots, complete the application, receive the absentee ballots, vote and deliver them sealed in a container-return envelope to the county board of elections in the county in which he is registered under the provisions of this section.

(b) Not earlier than the ~~twenty-fourth day~~ first business day after the twenty-fifth day before an election, in which absentee ballots are authorized, in which he seeks to vote and not later than 5:00 P.M. on the Friday prior to that election, the voter shall appear in person only at the office of the county board of elections and request that the chairman, a member, or the director of elections of the board, or an employee of the board of elections, authorized by the board, furnish him with an application form as specified in G.S. 163-227. The voter shall complete the application in the presence of the chairman, member, director of elections or authorized employee of the board, and shall deliver the application to that person.

(c) If the application is properly filled out, the chairman, member, director of elections of the board, or employee of the board of elections, authorized by the board, shall enter the voter's name in the register of absentee ballot applications and ballots issued; shall furnish the voter with the instruction sheets called for by G.S. 163-229(c); shall furnish the voter with the ballots to which the application for absentee ballots applies; and shall furnish the voter with a container-return envelope. The voter thereupon shall comply with the provisions of G.S. 163-231(a) except that he shall deliver the container-return envelope to the chairman, member, director of elections of the board, or an employee of the board of elections, authorized by the board, immediately after making and subscribing the

certificate printed on the container-return envelope as provided in G.S. 163-229(b). All actions required by this subsection shall be performed in the office of the board of elections. For the purposes of this section only, the chairman, member, director of elections of the board, or full-time employee, authorized by the board shall sign the application and certificate as the witness and indicate the official title held by him or her. Notwithstanding G.S. 163-231(a), in the case of this subsection, only one witness shall be required on the certificate.

(d) Only the chairman, member or director of elections of the board shall keep the voter's application for absentee ballots and the sealed container-return envelope in a safe place, separate and apart from other applications and container-return envelopes. At the first meeting of the board pursuant to G.S. 163-230(2) held after receipt of the application and envelope, the chairman shall comply with the requirements of G.S. 163-230(1) and G.S. 163-230(2)b. and c. If the voter's application for absentee ballots is approved by the board at that meeting, the application form and container-return envelope, with the ballots enclosed, shall be handled in the same manner and under the same provisions of law as applications and container-return envelopes received by the board under other provisions of this Article. If the voter's application for absentee ballots is disapproved by the board, the board shall so notify the voter stating the reason for disapproval by first-class mail addressed to the voter at his residence address or at the address shown in the application for absentee ballots; and the board chairman shall retain the container-return envelope in its unopened condition until the day of the primary or election to which it relates and on that day he shall destroy the container-return envelope and the ballots therein, without, however, revealing the manner in which the voter marked the ballots.

(e) The voter shall vote his absentee ballot in a voting booth and the county board of elections shall provide a voting booth for that purpose, provided however, that the county board of elections may in the alternative provide a private room for the voter adjacent to the office of the board, in which case the voter shall vote his absentee ballot in that room. The voting booth shall be in the office of the county board of elections. If the voter needs assistance in getting to and from the voting booth and in preparing and marking his ballots or if he is a blind voter, only a member of the county board of elections, the director of elections, an employee of the board of elections authorized by the board, a near relative of the voter as defined in G.S. 163-227(c)(4), or the voter's legal guardian shall be entitled to assist the voter.

(e1) If a county uses a voting system with retrievable ballots, that county's board of elections may by resolution elect to conduct one-stop absentee voting according to the provisions of this subsection. In a county in which the board has opted to do so, a one-stop voter shall cast the ballot and then shall deposit the ballot in the ballot box or voting system in the same manner as if such box or system was in use in a precinct on election day. At the end of each business day, or at any time when there will be no employee or officer of the board of elections on the premises, the ballot box or system shall be secured in accordance with a plan approved by the State Board of

Elections, which shall include that no additional ballots have been placed in the box or system. Any county board desiring to conduct one-stop voting according to this subsection shall submit a plan for doing so to the State Board of Elections. The State Board shall adopt standards for conducting one-stop voting under this subsection and shall approve any county plan that adheres to its standards. The county board shall adhere to its State Board-approved plan. The plan shall provide that each one-stop ballot shall have a ballot number on it in accordance with G.S. 163-230(3)a., or shall have an equivalent identifier to allow for retrievability. The standards shall address retrievability in one-stop voting on direct record electronic equipment where no paper ballot is used.

(f) Notwithstanding the exception specified in G.S. 163-36, counties which operate a modified full-time office shall remain open five days each week during regular business hours consistent with daily hours presently observed by the county board of elections, commencing with the date prescribed in G.S. 163-227.2(b) and continuing until 5:00 P.M. on the Friday prior to that election or primary. The boards of county commissioners shall provide necessary funds for the additional operation of the office during such time."

Section 3. (a) Article 14 of Chapter 163 of the General Statutes is amended by adding a new section to read:

"§ 163-162.2. Use of paper ballots in a second primary where voting systems are used in the first primary.

In counties in which voting systems are used in some or all precincts in a primary election, the county board of elections shall have authority to furnish in a second primary election paper ballots of each kind to precincts that used voting systems in the first primary election."

(b) This section applies only to Catawba County.

Section 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law upon approval of the Governor at 10:25 a.m. on the 17th day of September, 1997.

S.B. 595

CHAPTER 511

AN ACT TO AUTHORIZE THE NORTH CAROLINA MEDICAL BOARD TO LICENSE INSTEAD OF APPROVE PHYSICIAN ASSISTANTS, TO ISSUE A PHYSICIAN ASSISTANT LIMITED VOLUNTEER LICENSE, AND TO MAKE OTHER CHANGES IN THE STATUTES REGULATING PHYSICIAN ASSISTANTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-2(d) reads as rewritten:

"(d) Any member of the Board may be removed from office by the Governor for good cause shown. Any vacancy in the physician membership of the Board shall be filled for the period of the unexpired term by the Governor from a list of physicians submitted by the North Carolina Medical Society Executive Council. Any vacancy in the public public, physician

assistant, or nurse practitioner membership of the Board shall be filled by the Governor for the unexpired term."

Section 2. G.S. 90-11 reads as rewritten:

"§ 90-11. *Qualifications of applicant for license.*

Every applicant for a license to practice medicine or ~~for approval to perform medical acts~~ acts, tasks, and functions as a physician assistant in the State shall satisfy the North Carolina Medical Board that such the applicant is of good moral character and meets the other qualifications for the issuance of such a license or ~~for such approval~~ before any such license or approval is granted by the Board to such the applicant."

Section 3. Article 1 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"§ 90-12.1. *Physician assistant limited volunteer license.*

The Board shall issue a limited volunteer license which shall authorize a physician assistant to perform medical acts, tasks, and functions without payment or other compensation if the physician assistant meets one of the following:

- (1) Holds a current license or registration in another state and submits proof of this status to the Board.
- (2) Holds a current license in this State and is not currently employed as a physician assistant.
- (3) Is a member of the United States armed services or is employed by the Veterans' Administration or another federal agency."

Section 4. G.S. 90-18(13) reads as rewritten:

"(13) ~~Any act, task or function performed by an assistant to a person licensed as a physician by the North Carolina Medical Board when~~

- a. ~~Such assistant is approved by and annually registered with the Board as one qualified by training or experience to function as an assistant to a physician, except that no more than two assistants may be currently registered for any physician, and~~
- b. ~~Such act, task or function is performed at the direction or under the supervision of such physician, in accordance with rules and regulations promulgated by the Board, and~~
- c. ~~The services of the assistant are limited to assisting the physician in the particular field or fields for which the assistant has been trained, approved and registered;~~

The performance of any medical acts, tasks, and functions by a licensed physician assistant at the direction or under the supervision of a physician in accordance with rules adopted by the Board. Provided that this This subdivision shall not limit or prevent any physician from delegating to a qualified person any acts, tasks or tasks, and functions which that are otherwise permitted by law or established by custom. The Board shall authorize physician assistants licensed in this State or another state to perform specific medical acts, tasks, and functions during a disaster."

Section 5. G.S. 90-18.1 reads as rewritten:

"§ 90-18.1. Limitations on physician assistants.

(a) Any person who is approved licensed under the provisions of ~~G.S. 90-18(13)~~ G.S. 90-11 to perform medical acts, ~~tasks or tasks, and functions~~ as an assistant to a physician may use the title 'physician assistant.' assistant'. Any other person who uses the title in any form or holds out to be a physician assistant or to be so approved, licensed, shall be deemed to be in violation of this Article.

(b) Physician assistants are authorized to write prescriptions for drugs under the following conditions:

- (1) The North Carolina Medical Board has adopted regulations governing the approval of individual physician assistants to write prescriptions with such limitations as the Board may determine to be in the best interest of patient health and ~~safety~~; safety.
- (2) The physician assistant ~~has current approval from~~ holds a current license issued by the Board; Board.
- (3) ~~The North Carolina Medical Board has assigned an identification number to the physician assistant which is shown on the written prescription; and prescription.~~
- (4) The supervising physician has provided to the physician assistant written instructions about indications and contraindications for prescribing drugs and a written policy for periodic review by the physician of the drugs prescribed.

(c) Physician assistants are authorized to compound and dispense drugs under the following conditions:

- (1) The function is performed under the supervision of a licensed ~~pharmacist; and pharmacist.~~
- (2) Rules and regulations of the North Carolina Board of Pharmacy governing this function are complied with.
- (3) The physician assistant holds a current license issued by the Board.

(d) Physician assistants are authorized to order medications, tests and treatments in hospitals, clinics, ~~nursing homes~~ nursing homes, and other health facilities under the following conditions:

- (1) The North Carolina Medical Board has adopted regulations governing the approval of individual physician assistants to order medications, ~~tests tests,~~ and treatments with such limitations as the Board may determine to be in the best interest of patient health and ~~safety~~; safety.
- (2) The physician assistant ~~has~~ holds a current ~~approval from~~ license issued by the Board; Board.
- (3) The supervising physician has provided to the physician assistant written instructions about ordering medications, ~~tests tests,~~ and treatments, and when appropriate, specific oral or written instructions for an individual patient, with provision for review by the physician of the order within a reasonable time, as determined by the Board, after the medication, ~~test test,~~ or treatment is ~~ordered; and ordered.~~
- (4) The hospital or other health facility has adopted a written policy, approved by the medical staff after consultation with the nursing

administration, about ordering medications, tests tests, and treatments, including procedures for verification of the physician assistants' orders by nurses and other facility employees and such other procedures as are in the interest of patient health and safety.

(e) Any prescription written by a physician assistant or order given by a physician assistant for medications, tests tests, or treatments shall be deemed to have been authorized by the physician approved by the Board as the supervisor of the physician assistant and such the supervising physician shall be responsible for authorizing such the prescription or order.

(f) Any registered nurse or licensed practical nurse who receives an order from a physician assistant for medications, tests tests, or treatments is authorized to perform that order in the same manner as if it were received from a licensed physician."

Section 6. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law upon approval of the Governor at 10:27 a.m. on the 17th day of September, 1997.

H.B. 435

CHAPTER 512

AN ACT TO MAKE TECHNICAL CHANGES IN THE TEACHERS' AND STATE EMPLOYEES' COMPREHENSIVE MAJOR MEDICAL PLAN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 135-40.1(1a) reads as rewritten:

"(1a) Covered Services. -- Any medically necessary, reasonable, and customary items of service, at least a portion of the expense of which is covered under at least one of the plans covering the person for whom claim is made or service provided. ~~To the extent legally possible, it~~ It shall be synonymous with allowable ~~expenses, expenses, and with benefit or benefits."~~

Section 2. G.S. 135-40.1(7.1) reads as rewritten:

"(7.1) Experimental/Investigational Medical Procedures. -- ~~The use of any treatment, procedure, facility, equipment, drug, device, or supply not recognized as having scientifically established medical value nor accepted as standard medical treatment for the condition being treated as determined by the Executive Administrator and Board of Trustees upon the advice of the Claims Processor, nor any such items requiring federal or other governmental agency approval not granted at the time services were rendered. The Executive Administrator and Board of Trustees may overturn the advice of the Claims Processor upon convincing evidence from the American Medical Association, North Carolina Medical Society, the United States Health Care Financing Administration, medical technological journals, associations of health care providers, and other major United States insurers of health care expenses on a consensus of medical value and accepted standard medical~~

treatment. The use of a service, supply, drug, or device not recognized as standard medical care for the condition, disease, illness, or injury being treated as determined by the Executive Administrator and Board of Trustees upon the advice of the Claims Processor. Determinations are made after independent review of scientific data. Opinions of experts in a particular field and opinions and assessments of nationally recognized review organizations shall also be considered by the Plan but are not determinative or conclusive. The fact that an experimental/investigational treatment is the only available treatment for a particular condition will not result in coverage if the treatment is experimental/investigational in the treatment of the particular condition, nor is it relevant for purposes of coverage that the member has tried other more conventional therapies without success. The following criteria are the basis for determination that a service or supply is investigational:

- a. Services or supplies requiring federal or other governmental body approval, such as drugs and devices that do not have market approval from the Food and Drug Administration (FDA) or final approval from any other governmental regulatory body for use in treatment of the condition being treated, or are not recognized for the treatment of a condition in one of the standard reference compendia or in generally accepted peer-reviewed medical literature;
- b. There is insufficient or inconclusive scientific evidence in peer review medical literature to permit the Plan's evaluation of the therapeutic value of the service or supply;
- c. There is inconclusive evidence that the service or supply has a beneficial effect on health outcomes;
- d. Is provided as part of a research or clinical trial;
- e. Are provided pursuant to a written protocol or other document that lists an evaluation of the service's safety, toxicity, or efficacy as among its objectives;
- f. Are subject to approval or review of an Institutional Review Board or other body that approves or reviews research; or
- g. Are provided pursuant to informed consent documents that describe the service as experimental, investigational, or part of a research study."

Section 3. G.S. 135-40.6(6)i. reads as rewritten:

- "i. No benefits are payable for organ transplants not listed in G.S. 135-40.6(5)a, nor will benefits be payable for surgical procedures or organ transplants determined ~~in the opinion of the~~ by the Executive Administrator and Board of Trustees upon the advice of the Claims Processor to be experimental."

Section 4. G.S. 135-40.7 is amended by adding the following subdivisions:

- "(19) Any service, treatment, facility, equipment, drug, supply, or procedure that is experimental or investigational as defined in G.S. 1350-40.1(7.1).
- (20) Complications arising from noncovered services known at the time the noncovered services were provided.
- (21) Charges related to a noncovered service, even if the charges would have been covered if rendered in connection with a covered service."

Section 5. G.S. 135-40.6(6)j. reads as rewritten:

- "j. No benefits are payable for radial keratotomy surgical ~~procedures~~, procedures or for services to correct vision when performed in lieu of the use of corrective lenses."

Section 6. G.S. 135-40.6A(c) reads as rewritten:

- "(c) No procedure for prior approval may be established except as provided by this ~~section~~ Article as it may be amended from time to time."

Section 7. G.S. 135-40.6(1) reads as rewritten:

- "(1) In-Hospital Benefits. -- The Plan pays in-hospital benefits for each single confinement, when charged by a hospital, for room accommodations, including bed, board and general nursing care, but not to exceed the charge for semiprivate room or ward accommodations, or the rate negotiated for the Plan. Under the DRG reimbursement system, the coinsurance shall be based on the lower of the DRG amount or charges.

The Plan will pay the following covered charges, when charged by a hospital, for each confinement.

- a. Intensive and cardiac nursing care.
- b. All recognized drugs and medicines for use in the hospital.
- c. Radiation services, including diagnostic x-rays, x-ray therapy, radiation therapy and treatment.
- d. Clinical and pathological laboratory examinations.
- e. Electrocardiograms and electroencephalograms.
- f. Physical therapy.
- g. Intravenous solutions.
- h. Oxygen and oxygen therapy, plus the use of equipment.
- i. Dressings, ordinary splints, plaster casts and sterile supplies.
- j. Use of operating, delivery, recovery and treatment rooms and equipment.
- k. Routine nursery charges, if the mother is eligible to receive maternity benefits.
- l. Anesthetics and the administration thereof by the hospital's employee anesthesiologist.
- m. Devices or appliances surgically inserted within the body.
- n. Processing and administering of blood and blood plasma.
- o. Children are entitled to benefits for treatment of illnesses or congenital defect, incubation or isolette care, and treatment of prematurity or postmaturity.

If the mother is a covered individual, benefits are provided for the newborn's circumcision and routine nursery care.

- p. When a covered individual is admitted to or transferred to a section of a hospital providing ambulant, convalescent, or rehabilitative care, benefits are provided up to the average number of days of service for treatment of the particular diagnosis or condition involved, or more if medical necessity requires.

- q. The Plan pays benefits for laboratory testing and administration of blood provided to a covered individual.

When a covered individual is the recipient of transplanted organs or bones, benefits are provided for services to the donor which are directly and specifically related to the transplantation.

- r. Repealed by Session Laws 1991, c. 427, s. 31.

- s. The use of nebulizers when authorized as medically necessary by the attending physician."

Section 8. G.S. 135-40.6(2)f. reads as rewritten:

- "f. Prior to admission for scheduled inpatient hospitalization, the admitting physician shall contact the Plan and secure approval certification for an inpatient admission, including a length of stay, based upon clinical criteria established by the medical community, before any in-hospital benefits are allowed under G.S. 135-40.8(a). Immediately following an emergency or unscheduled inpatient hospitalization, the admitting physician shall contact the Plan and secure approval certification for the admission's length of stay before any in-hospital benefits are allowed under G.S. 135-40.8(a). Effective January 1, 1987, failure to secure certification, or denial of certification, shall result in in-hospital benefits being allowed at the rate maximum amount of out-of-pocket expenses established by G.S. 135-40.8(b), a penalty of fifty percent (50%) of the eligible expenses up to five hundred dollars (\$500.00) per admission and the denial of services that were not medically necessary or appropriate, as determined by the Claims Processor. Denial of certification by the Plan shall be made only after contact with the admitting physician and shall be subject to appeal to the Executive Administrator and Board of Trustees. Inpatient hospital admission and length of stay certifications required by this subdivision do not apply to inpatient admissions outside of the United States. While approval certification for inpatient admissions is required to be initiated by the admitting physician, the employee or individual covered by the Plan shall be responsible for insuring that the required certification is secured. Failure to secure certification for inpatient hospitalization shall not result in a penalty to the employee or individual when approval would have been given if requested. Denial of services under this subsection shall be done only after notification of the Plan member of his or her personal financial responsibility for such services."

Section 9. G.S. 135-40.1 is amended by adding a new subdivision to read:

"(17a) Skilled Care. -- Medically necessary services that can only be rendered under State law or regulation by licensed health professionals such as a medical doctor, physician's assistant, physical therapist, occupational therapist, speech therapist, certified clinical social worker, certified nurse midwife, licensed practical nurse, or registered nurse."

Section 10. G.S. 135-40.6(3) reads as rewritten:

"(3) Skilled Nursing Facility Benefits. -- The Plan will pay benefits in a skilled nursing facility licensed under applicable State laws as follows:

After discharge from a hospital for which inpatient hospital benefits were provided by this Plan for a period of not less than three days, and treatment consistent with the same illness or condition for which the covered individual was hospitalized, the daily charges will be paid for room and board in a semiprivate room or any multibed unit up to the maximum benefit specified in subsection (1) of this section, less the days of care already provided for the same illness in a hospital. Plan allowances for total daily charges may be negotiated but will not exceed the daily semiprivate hospital room rate as determined by the Plan.

Credit will be allowed toward private room charges in an amount equal to the facility's most prevalent charge for semiprivate accommodations. Charges will also be paid for general nursing care and other services which would ordinarily be covered in a general hospital. In order to be eligible for these benefits, admission must occur within 14 days of discharge from the hospital.

In order to qualify for benefits provided by a skilled nursing facility, the following stipulations apply:

- a. The services are medically required to be given on an inpatient basis because of the covered individual's need for medically necessary skilled nursing care on a continuing daily basis for any of the conditions for which he or she was receiving inpatient hospital services prior to transfer from a hospital to the skilled nursing facility or for a condition requiring such services which arose after such transfer and while he or she was still in the facility for treatment of the condition or conditions for which he or she was receiving inpatient hospital services,
- b. Only on prior referral by and so long as, the patient remains under the active care of an attending doctor ~~who certifies that and the patient requires~~ continual hospital confinement would be required without the care and treatment of the skilled nursing facility, and
- c. Approved in advance by the Claims Processor.

For facilities not qualified for delivery of services covered by the benefits of Title XVIII of the Social Security Act

(Medicare), neither the Plan nor any of its members shall be billed or held liable by such facilities for charges that otherwise would be covered by Medicare."

Section 11. G.S. 135-40.6(8)c. reads as rewritten:

"c. Home Health Agency Services: Services provided in a covered individual's home, when ordered by the attending physician ~~who certifies that~~ and hospital or skilled nursing facility confinement would be required for the patient without such treatment and cannot be readily provided by family members. Services may include medical supplies, equipment, appliances, therapy services (when provided by a qualified speech therapist or licensed physiotherapist), and nursing services. Nursing services will be allowed for:

1. Services of a registered nurse (RN); or
2. Services of a licensed practical nurse (LPN) under the supervision of a RN; or
3. Services of a home health aide which are an adjunct to or extension of concurrent medically necessary skilled services under the supervision of a RN, limited to four hours a day.

Home health services shall be limited to 60 days per fiscal year, except that additional home health services may be provided on an individual basis if prior approval is obtained from the Claims Processor. Plan allowances for home health services shall be limited to licensed or Medicare certified home health agencies and shall not exceed ninety percent (90%) of the skilled nursing facility semiprivate rates as determined by the Plan, or charges negotiated by the Plan."

Section 12. G.S. 135-40.1(11) reads as rewritten:

"(11) Home Health Care Coverage. -- Coverage for home care and treatment established and approved in writing by a physician ~~who certifies that~~ for an individual whom continual hospital confinement would be required without the care and treatment specified by this coverage."

Section 13. G.S. 135-40.7(5) reads as rewritten:

"(5) Charges for any care, treatment, services or supplies other than those which are certified by a physician who is attending the individual as being required for the medically necessary treatment of the injury or ~~disease~~. disease and are deemed medically necessary and appropriate for the treatment of the injury or disease by the Executive Administrator and Board of Trustees upon the advice of the Claims Processor. This subdivision shall not be construed, however, to require certification by an attending physician for a service provided by an advanced practice registered nurse acting within the nurse's lawful scope of practice, subject to the limitations of G.S. 135-40.6(10)."

Section 14. G.S. 135-40.7B reads as rewritten:

"§ 135-40.7B. Special provisions for chemical dependency and mental health benefits."

(a) Except as otherwise provided in this section, benefits for the treatment of mental illness and chemical dependency are covered by the Plan and shall be subject to the same deductibles, durational limits, and coinsurance factors as are benefits for physical illness generally.

(b) Notwithstanding any other provision of this Part, the following necessary services for the care and treatment of chemical dependency and mental illness shall be covered under this section: allowable institutional and professional charges for inpatient psychiatric care, outpatient psychotherapy, care, intensive outpatient crisis management, program services, partial hospitalization treatment, and residential care and treatment. treatment:

(1) For mental illness treatment:

- a. Licensed psychiatric hospitals;
- b. Licensed psychiatric beds in licensed general hospitals;
- c. Licensed residential treatment facilities;
- d. Area Mental Health, Developmental Disabilities, and Substance Abuse Authorities;
- e. Licensed intensive outpatient treatment programs; and
- f. Licensed partial hospitalization programs.

(2) For chemical dependency treatment:

- a. Licensed chemical dependency units in licensed psychiatric hospitals;
- b. Licensed chemical dependency hospitals;
- c. Licensed chemical dependency treatment facilities;
- d. Area Mental Health, Developmental Disabilities, and Substance Abuse Authorities;
- e. Licensed intensive outpatient treatment programs;
- f. Licensed partial hospitalization programs; and
- g. Medical detoxification facilities or units.

~~The benefits provided by this section are separate and apart from those provided by G.S. 135-40.7A.~~

(c) Notwithstanding any other provisions of this Part, the following providers ~~are authorized to~~ and no others may provide necessary care and treatment for mental illness health under this section:

- (1) Licensed psychiatrists; Psychiatrists who have completed a residency in psychiatry approved by the American Council for Graduate Medical Education and who are licensed as medical doctors or doctors of osteopathy in the state in which they perform and services covered by the Plan;
- (2) Licensed or certified doctors of psychology;
- (3) Certified clinical social workers;
- (3a) Licensed professional counselors;
- (4) Psychiatric nurses; Certified clinical specialists in psychiatric and mental health nursing;
- (4a) Nurses working under the employment and direct supervision of such physicians, psychologists, or psychiatrists;
- (5) Other social workers under the direct employment and supervision of a licensed psychiatrist or licensed doctor of psychology;

- (6) Psychological associates with a ~~master's~~ masters degree in psychology under the direct employment and supervision of a licensed psychiatrist or licensed or certified doctor of psychology; and
- (7) ~~Licensed psychiatric hospitals and licensed general hospitals providing psychiatric treatment programs;~~
- (8) ~~Certified residential treatment facilities, community mental health centers, and partial hospitalization facilities; and~~
- (9) Certified fee-based practicing pastoral counselors.

(c1) Notwithstanding any other provisions of this Part, the following providers and no others may provide necessary care and treatment for chemical dependency under this section:

- (1) The following providers with appropriate substance abuse training and experience in the field of alcohol and other drug abuse as determined by the mental health case manager, in facilities described in subdivision (b)(2) of this section, in day/night programs or outpatient treatment facilities licensed after July 1, 1984, under Article 2 of Chapter 122C of the General Statutes or in North Carolina area programs in substance abuse services are authorized to provide treatment for chemical dependency under this section:
 - a. Licensed physicians including, but not limited to, physicians who are certified in substance abuse by the American Society of Addiction Medicine (ASAM);
 - b. Licensed or certified psychologists;
 - c. Psychiatrists;
 - d. Certified substance abuse counselors working under the direct supervision of such physicians, psychologists, or psychiatrists;
 - e. Psychological associates with a masters degree in psychology working under the direct supervision of such physicians, psychologists, or psychiatrists;
 - f. Nurses working under the direct supervision of such physicians, psychologists, or psychiatrists;
 - g. Certified clinical social workers;
 - h. Certified clinical specialists in psychiatric and mental health nursing;
 - i. Licensed professional counselors; and
 - j. Certified fee-based practicing pastoral counselors until July 1, 1999.
- (2) The following providers with appropriate substance abuse training and experience in the field of alcohol and other drug abuse as determined by the mental health case manager are authorized to provide treatment for chemical dependency in outpatient practice settings:
 - a. Licensed physicians who are certified in substance abuse by the American Society of Addiction Medicine (ASAM);
 - b. Licensed or certified psychologists;
 - c. Psychiatrists;

- d. Certified substance abuse counselors working under the employment and direct supervision of such physicians, psychologists, or psychiatrists;
- e. Psychological associates with a masters degree in psychology working under the employment and direct supervision of such physicians, psychologists, or psychiatrists;
- f. Nurses working under the employment and direct supervision of such physicians, psychologists, or psychiatrists;
- g. Certified clinical social workers;
- h. Certified clinical specialists in psychiatric and mental health nursing;
- i. Licensed professional counselors;
- j. Licensed fee-based practicing pastoral counselors until July 1, 1999; and
- k. In the absence of meeting one of the criteria above, the Mental Health Case Manager could consider, on a case-by-case basis, a provider who supplies:
 - 1. Evidence of graduate education in the diagnosis and treatment of chemical dependency, and
 - 2. Supervised work experience in the diagnosis and treatment of chemical dependency (with supervision by an appropriately credentialed provider), and
 - 3. Substantive past and current continuing education in the diagnosis and treatment of chemical dependency commensurate with one's profession.

Provided, however, that nothing in this subsection shall prohibit the Plan from requiring the most cost-effective treatment setting to be utilized by the person undergoing necessary care and treatment for chemical dependency.

(d) Benefits provided under this section shall be subject to a managed, individualized care component case management program for medical necessity and medical appropriateness consisting of (i) precertification of outpatient visits beyond 26 visits each Plan year, (ii) all electroconvulsive treatment, (iii) inpatient utilization review through preadmission and length-of-stay certification for scheduled inpatient nonemergency admissions to the following levels of care: inpatient units, partial hospitalization programs, residential treatment centers, chemical dependency detoxification and treatment programs, and intensive outpatient programs, (iv) and length-of-stay reviews for unscheduled certification of emergency inpatient admissions, and (v) a network of qualified, available providers of inpatient and outpatient psychiatric and chemical dependency treatment psychotherapy treatment. Care which is not both medically necessary and medically appropriate will be noncertified, and benefits will be denied. Where qualified preferred providers of inpatient and outpatient care are reasonably available, use of providers outside of the preferred network shall be subject to a twenty percent (20%) coinsurance rate up to five thousand dollars (\$5,000) per fiscal year to be assessed against each covered individual in addition to the general coinsurance percentage and maximum fiscal year amount specified by G.S. 135-40.4 and G.S. 135-40.6.

(c) For the purpose of this section, 'emergency' is the sudden and unexpected onset of a condition manifesting itself by acute symptoms of sufficient severity that, in the absence of an immediate psychiatric or chemical dependency inpatient admission, could imminently result in injury or danger to self or others."

Section 15. G.S. 135-40.7A is repealed.

Section 16. G.S. 135-40.1(7) reads as rewritten:

"(7) Enrollment. -- New employees must enroll themselves and their dependents within 30 days from the date of employment, employment or from first becoming eligible on a noncontributory basis. Coverage may become effective on the first day of the month following date of entry on payroll or on the first day of the following month. New employees not enrolling themselves and their dependents within 30 days, or not adding dependents when first eligible as provided herein may enroll on the first day of any month but will be subject to a 12-month waiting period for preexisting health conditions, except for employees who elect to change their coverage in accordance with rules established by the Executive Administrator and Board of Trustees for optional prepaid hospital and medical benefit plans. Children born to covered employees having coverage type (2), or (3), as outlined in G.S. 135-40.3(d) shall be automatically covered at the time of birth without any waiting period for preexisting health conditions. Children born to covered employees having coverage type (1) shall be automatically covered at birth without any waiting period for preexisting health conditions so long as the Claims Processor receives notification within 30 days of the date of birth that the employee desires to change from coverage (1) to coverage type (2), or (3), provided that the employee pays any additional premium required by the coverage type selected retroactive to the first day of the month in which the child was born.

Newly acquired dependents (spouse/child) enrolled within 30 days of becoming an eligible dependent will not be subject to the 12-month waiting period for preexisting conditions. A dependent can become qualified due to marriage, adoption, entering a foster child relationship, due to the divorce of a dependent child or the death of the spouse of a dependent child, and at the beginning of each legislative session (applies only to enrolled legislators). Effective date for newly acquired dependents if application was made within the 30 days can be the first day of the following month. Effective date for an adopted child can be date of adoption, or date of placement in the adoptive parent's home, or the first of the month following the date of adoption or placement."

Section 17. G.S. 135-40.2(a) is amended by adding new subdivisions to read:

"(7) Any member enrolled pursuant to subdivision (1) or (1a) of this subsection who is on approved leave of absence with pay or receiving workers' compensation.

(8) Employees on approved Family and Medical Leave."

Section 18. G.S. 135-40.1(8) reads as rewritten:

"(8) Health Benefits Representative. -- The employee designated by the employing unit to administer the Comprehensive Major Medical Plan for the unit and its employees. The HBR is responsible for enrolling new employees, reporting changes, explaining benefits, reconciling group statements and remitting group fees. The State Retirement System is the Health Benefits Representative for retired members."

Section 19. G.S. 135-40.2(b)(2a) reads as rewritten:

"(2a) For enrollments after September 30, 1986, former members of the General Assembly if covered under the Plan at termination of membership in the General Assembly. To be eligible for coverage as a former member of the General Assembly, application must be made within 30 days of the end of the term of office. Only members of the General Assembly covered by the Plan at the end of the term of office are eligible. If application is not made within the specified time period, the member forfeits eligibility."

Section 20. G.S. 135-40.2(b)(5) reads as rewritten:

"(5) The spouses and eligible dependent children of enrolled teachers, State employees, retirees, former members of the General Assembly, former employees covered by the provisions of G.S. 135-40.2(a)(6), Disability Income Plan beneficiaries, enrolled continuation members, and members of the General Assembly. Spouses of surviving dependents are not eligible, nor are dependent children if they were not covered at the time of the member's death. Surviving spouses may cover their dependent children provided the children were enrolled at the time of the member's death or enroll within 30 days of the member's death."

Section 21. G.S. 135-40.2(b)(6) reads as rewritten:

"(6) Blind persons licensed by the State to operate vending facilities under contract with the Department of Human Resources, Division of Services for the Blind and its successors, who are:

- a. Operating such a vending facility;
- b. Former operators of such a vending facility whose service as an operator would have made these operators eligible for an early or service retirement allowance under Article 1 of this Chapter had they been members of the Retirement System; and
- c. Former operators of such a vending facility who attain five or more years of service as operators and who become eligible for and receive a disability benefit under the Social Security Act upon cessation of service as an operator.

Spouses, dependent children, surviving spouses, and surviving dependent children of such members are not eligible for coverage."

Section 22. G.S. 135-40.2(b)(4a) is repealed.

Section 23. G.S. 135-40.2(b)(10) reads as rewritten:

- "(10) Any eligible dependent child of the deceased retiree, teacher, State employee, ~~or member of the General Assembly, Assembly, former member of the General Assembly, or Disability Income Plan beneficiary~~, provided the child was covered at the time of death of the retiree, teacher, State employee, ~~or member of the General Assembly, Assembly, former member of the General Assembly, or Disability Income Plan beneficiary~~, (or was in posse at the time and is covered at birth under this Part), or was covered under the Plan on September 30, 1986. ~~Any eligible spouse or dependent child of a person eligible under subdivision (8) of this subsection if the spouse or dependent child was enrolled before October 1, 1986. An eligible surviving dependent child can remain covered until age 19, or age 26 if a full-time student, or indefinitely if certified as incapacitated under G.S. 135-40.1(3)b."~~

Section 24. G.S. 135-40.2(c) reads as rewritten:

"(c) No person shall be eligible for coverage as ~~an employee or retired employee and as a dependent of an employee or retired employee at the same time, a dependent if eligible as an employee or retired employee, except when a spouse is eligible on a fully contributory basis~~. In addition, no person shall be eligible for coverage as a dependent of more than one employee or retired employee at the same time."

Section 25. G.S. 135-40.2(d) reads as rewritten:

"(d) Former employees who are receiving disability retirement benefits or disability income benefits pursuant to Article 6 of Chapter 135 of the General Statutes, provided the former employee has at least five years of retirement membership service, shall be eligible for the benefit provisions of this Plan, as set forth in this Part, ~~on the same basis as a retired employee, a noncontributory basis~~. Such coverage shall terminate as of the end of the month in which such former employee is no longer eligible for disability retirement benefits or disability income benefits pursuant to Article 6 of this Chapter."

Section 26. G.S. 135-40.2 is amended by adding a new subsection to read:

"(i) Any employee receiving benefits pursuant to Article 6 of this Chapter when the employee has less than five years of retirement membership service, or an employee on leave without pay due to illness or injury for up to 12 months, is entitled to continued coverage under the Plan for the employee and any eligible dependents by paying one hundred percent (100%) of the cost."

Section 27. G.S. 135-40.2(g) reads as rewritten:

"(g) An eligible surviving spouse and any eligible surviving dependent child of a deceased retiree, teacher, State employee, ~~or member of the General Assembly, Assembly, former member of the General Assembly, or Disability Income Plan beneficiary~~ shall be eligible for group benefits under this section without waiting periods for preexisting conditions provided coverage is elected within 90 days after the death of the former plan member. Coverage may be elected at a later time, but will be subject to the

12-month waiting period for preexisting conditions and will be effective the first day of the month following receipt of the application."

Section 28. G.S. 135-40.3(b)(4) reads as rewritten:

"(4) Employees and dependents ~~reenrolled~~ enrolling or reenrolling within 12 months after a termination of ~~enrollment~~, enrollment or employment that were not enrolled at the time of this previous termination, regardless of the employing units involved, shall not be considered as newly-eligible employees or dependents for the purposes of waiting periods and preexisting conditions. Employees and dependents transferring from optional prepaid plans in accordance with G.S. 135-39.5B; employees and dependents immediately returning to service from an employing unit's approved periods of leave without pay for illness, injury, educational improvement, workers' compensation, parental duties, or for military reasons; employees and dependents immediately returning to service from a reduction in an employing unit's work force; retiring employees and dependents reenrolled in accordance with G.S. 135-40.3(b)(3); formerly-enrolled dependents reenrolling as eligible employees; formerly-enrolled employees reenrolling as eligible dependents; and employees and dependents reenrolled without waiting periods and preexisting conditions under specific rules and regulations adopted by the Executive Administrator and Board of Trustees in the best interests of the Plan shall not be considered reenrollments for the purpose of this subdivision. Furthermore, employees accepting permanent, full-time appointments who had previously worked in a part-time or temporary position and their qualified dependents shall not be covered by waiting periods and preexisting conditions under this division provided enrollment as a permanent, full-time employee is made when the employee and his dependents are first eligible to enroll."

Section 29. G.S. 135-40.3(c)(3) reads as rewritten:

"(3) Employees and retired employees may change from individual or parent/child(ren) coverage to parent/child(ren) or family coverage or add dependents to existing family or parent/child(ren) coverage upon acquiring a dependent without a waiting period for preexisting conditions, and such dependents will be covered under the Plan the first of the month or the first of the second month following the dependent's eligibility for coverage, provided upon written application at any time after acquiring a dependent, and such dependent will be covered under the Plan beginning the first of the next calendar month following receipt of such application by the Claims Processor, is submitted to the Health Benefits Representative within 30 days of becoming eligible."

Section 30. G.S. 135-40.3(c)(4) reads as rewritten:

"(4) Employees or retired employees who wish to change from family coverage to parent/child(ren) or individual or from parent/child(ren) to individual coverage shall give written notice to the Claims Processor within 31 their Health Benefits

Representative within 30 days after any change in the status of dependents, (resulting from death, divorce, etc.) which that requires a change from family coverage to individual coverage, in contract type. The effective date will be the first of the month following the dependent's ineligibility event. If notification was not made within the 30 days following the dependent's ineligibility event, the dependent will be retroactively removed the first of the month following the dependent's ineligibility event, and the coverage type change will be the first of the month following written notification, except in cases of death, in which case the coverage type change will be made retroactive to the first of the month following the death."

Section 31. G.S. 135-40.3(c) is amended by adding two new subdivisions to read:

- "(6) Employees or retired employees who wish to change from family to parent/child(ren) or individual coverage or from parent/child(ren) to individual coverage, even though their dependents continue to be eligible, shall give written notification to their Health Benefits Representative. Effective date of this type change will be the first of the month following written notification or any first of the month thereafter as desired by the employee.
- (7) The effective date for newborns or adopted children will be date of birth, date of adoption, or placement with adoptive parent provided member is currently covered under a family or parent/child(ren) coverage. If the member wishes to add a newborn or adopted child and is currently enrolled on individual coverage, the member must submit application for coverage and a coverage type change within 30 days of the child's birth or date of adoption or placement. Effective date for the coverage type change is the first of the month in which the child is born, adopted, or placed. Adopted children may also be covered the first of the month following placement or adoption."

Section 32. G.S. 135-40.11(a)(7) reads as rewritten:

- "(7) The last day of the month in which an employee who is Medicare-eligible selects Medicare to be the primary payer of medical benefits. Coverage for a Medicare-eligible spouse of an employee shall also cease the last day of the month in which Medicare is selected to be the primary payer of medical benefits for the Medicare-eligible spouse. Such members are eligible to apply for conversion coverage."

Section 33. G.S. 135-40.11(b) is amended by adding a new subsection to read:

- "(b1) Coverage under the Plan as a surviving dependent child whether covered as a dependent of a surviving spouse, or as an individual member (no living parent), ceases when the child ceases to be a dependent child as defined by G.S. 135-40.1(3), except coverage may continue under the Plan on a fully contributory basis for a period of not more than 36 months after loss of dependent status."

Section 34. G.S. 135-40.11(c)(1) reads as rewritten:

- "(1) In the event of termination for any reason other than death, coverage under the Plan for an employee and his or her eligible spouse or dependent children, provided the eligible spouse or dependent children were covered under the Plan at termination of employment ~~or were covered on September 30, 1986~~, may be continued for a period of not more than 18 months following termination of employment on a fully contributory basis. Employees who were covered under the Plan at termination of employment may be continued for a period of not more than 18 months or 29 months if determined to be disabled under the Social Security Act, Title II, OASDI or Title XVI, SSI."

Section 35. G.S. 135-40.11(h) reads as rewritten:

"(h) Continuation coverage under this Plan shall not be continued past the occurrence of any one of the following events:

- (1) The termination of the Plan.
- (2) Failure of a Plan member to pay monthly in advance any required premiums.
- (3) A member person becomes a covered employee or a dependent of a covered employee under any group health plan or, in the case of a surviving spouse, when the surviving spouse remarries and becomes covered under a group health plan, and that group health plan has no restrictions or limitations on benefits.
- (4) A member person becomes eligible for Medicare benefits. benefits on or after the effective date of the continuation coverage.
- (5) The person was determined to be no longer disabled, provided the 18-month coverage was extended to 29 months due to having been determined to be disabled under the Social Security Act, Title II, OASDI or Title XVI, SSI.
- (6) The person reaches the maximum applicable continuation period of 18, 29, or 36 months."

Section 36. G.S. 135-40.6(8)i. reads as rewritten:

- "i. Physical Therapy: Recognized forms of physical therapy for restoration of bodily function, provided by a doctor, hospital, ~~or by a licensed professional physiotherapist. physiotherapist,~~ or certified physical therapy assistant. No benefits are provided for eye exercises or visual training."

Section 37. G.S. 135-40.6(8)r. reads as rewritten:

- "r. Occupational Therapy: Recognized forms of occupational therapy provided by a doctor, hospital, ~~or by a licensed professional occupational therapist, or certified occupational~~ therapy assistant to restore fine motor skills for the resumption of bodily functions."

Section 38. (a) G.S. 135-40.6(8)o. reads as rewritten:

- "o. Foot Surgery: ~~All foot Foot surgery on bones and joints in excess of one thousand dollars (\$1,000), except for emergencies, shall require prior approval from the Claims Processor. joints.~~"

(b) G.S. 135-40.6A(a)(7) is repealed.

Section 39. G.S. 135-40.6A(b)(5) and G.S. 135-40.6A(b)(6) are repealed.

Section 40. Effective July 1, 1997, G.S. 135-40.3(b)(5) reads as rewritten:

"(5) To administer the 12-month waiting period for preexisting conditions under this Article, the Plan must give credit against the 12-month period for the time that a person was covered under a previous plan if the previous plan's coverage was continuous to a date not more than ~~60~~ 63 days before the effective date of coverage. As used in this subdivision, a 'previous plan' means any policy, certificate, contract, or any other arrangement provided by any accident and health insurer, any hospital or medical service corporation, any health maintenance organization, any preferred provider organization, any multiple employer welfare arrangement, any self-insured health benefit arrangement, any governmental health benefit or health care plan or program, or any other health benefit arrangement."

Section 41. This act becomes effective October 1, 1997, unless otherwise specified.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law upon approval of the Governor at 10:28 a.m. on the 17th day of September, 1997.

S.B. 725

CHAPTER 513

AN ACT PERTAINING TO THE FILING OF A DEFERRED CHARGE WITH THE EEOC OR THE OFFICE OF ADMINISTRATIVE HEARINGS BY STATE OR LOCAL GOVERNMENT EMPLOYEES AND AMENDING CHAPTER 143 OF THE GENERAL STATUTES TO PROVIDE FOR AN INCENTIVE BONUS PROGRAM TO RECOGNIZE AND REWARD THE COST-SAVING AND REVENUE-INCREASING INITIATIVES AND INNOVATIONS OF STATE EMPLOYEES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-759 reads as rewritten:

"§ 7A-759. *Role as deferral agency.*

(a) The Office of Administrative Hearings is designated to serve as the State's deferral agency for cases deferred by the Equal Employment Opportunity Commission to the Office of Administrative Hearings as provided in Section 706 of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-5, the Age Discrimination in Employment Act, 29 U.S.C. § 621 et seq., and the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq. for charges filed by State or local government employees covered under Chapter 126 of the General Statutes and shall have all of the powers and authority necessary to function as a deferral agency.

(b) The Chief Administrative Law Judge is authorized and directed to contract with the Equal Employment Opportunity Commission for the Office

of Administrative Hearings to serve as a deferral agency and to establish and maintain a Civil Rights Division in the Office of Administrative Hearings to carry out the functions of a deferral agency.

(b) As provided in the contract between the Office of Administrative Hearings and the Equal Employment Opportunity Commission, a deferred charge for purposes of 42 U.S.C. § 2000e-5(c) or (d) is a charge that is filed by a State or local government employee covered under Chapter 126 of the General Statutes and alleges an unlawful employment practice prohibited under that Chapter or any other State law. A deferred charge may be filed with either agency.

The date a deferred charge is filed with either agency is considered to be a commencement of proceedings under State law for purposes of 42 U.S.C. § 2000e-5(c) or (d). The filing of a deferred charge automatically tolls the time limit under G.S. 126-7.2, 126-35, 126-38, and 150B-23(f) and any other State law that sets a time limit for filing a contested case under Article 3 of Chapter 150B of the General Statutes alleging an unlawful employment practice. These time limits are tolled until the completion of the investigation and of any informal methods of resolution pursued pursuant to subsection (d) of this section.

(c) In investigating charges an employee of the Civil Rights Division of the Office of Administrative Hearings specifically designated by an order of the Chief Administrative Law Judge filed in the pending case may administer oaths and affirmations.

(c1) In investigating charges, an employee of the Civil Rights Division shall have access at reasonable times to State premises, records, and documents relevant to the charge and shall have the right to examine, photograph, and copy evidence. Any challenge to the Civil Rights Division to investigate the deferred charge shall not constitute grounds for denial or refusal to produce or allow access to the investigative evidence.

(d) Any charge not resolved by informal methods of conference, conciliation or persuasion shall may be heard as a contested case as provided in Article 3 of Chapter 150B of the General Statutes.

(e) Notwithstanding G.S. 150B-34 and G.S. 150B-36, an order entered by an administrative law judge after a contested case hearing on the merits of a deferred charge is a final agency decision and is binding on the parties. The administrative law judge may order whatever remedial action is appropriate to give full relief consistent with the requirements of federal statutes or ~~regulations~~. regulations or State statutes or rules.

(f) In addition to the authority vested in G.S. 7A-756 and G.S. 150B-33, an administrative law judge may monitor compliance with any negotiated settlement, conciliation agreement or order entered in a deferred case.

(g) The standards of confidentiality established by federal statute or regulation for discrimination charges shall apply to deferred cases investigated or heard by the Office of Administrative Hearings.

(h) Nothing in this section shall be construed as limiting the authority or right of any federal agency to act under any federal statute or regulation.

(i) This section shall be broadly construed to further the general purposes stated in this section and the specific purposes of the particular provisions involved."

Section 2. Chapter 143 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 36A.

"State Employee Incentive Bonus Program.

"§ 143-345.10. Definitions.

The following definitions apply in this Article:

- (1) Baseline reversion. -- The two-year historical average of reversions by a State department, agency, or institution.
- (2) Employing unit. -- Any of the following:
 - a. The principal Council of State office or department enumerated in G.S. 143A-11 for which a State employee works.
 - b. The principal State department enumerated in G.S. 143B-6 for which a State employee works.
 - c. The constituent institution of The University of North Carolina or the General Administration of The University of North Carolina for which a State employee works.
 - d. The local school administrative unit for which a State employee works.
 - e. The board, commission, or agency and its staff for which a State employee works, if that agency is not organizationally housed in any of the other offices, departments, or institutions listed in this subdivision.
- (3) State employee. -- Any of the following:
 - a. A person who is a contributing member of the Teachers' and State Employees' Retirement System of North Carolina, the Consolidated Judicial Retirement System of North Carolina, or the Optional Program.
 - b. A person who receives wages from the State as a part-time or temporary worker, but is not otherwise a contributing member of one of the retirement programs listed in sub-subdivision a. of this subdivision.

"§ 143-345.11. State employee incentive bonus.

(a) A State employee or team of State employees may receive an incentive bonus or bonuses in reward for suggestions or innovations resulting in monetary savings to the State, increased revenues to the State, or improved quality of services delivered to the public.

(b) In addition to any bonuses paid directly to individual State employees, a portion of the cost-savings associated with any savings realized from permanent efficiencies implemented pursuant to this Article may be contributed to a reserve fund for State employee performance bonuses. Funds for State employee incentive bonuses shall only come from savings including reversions above the baseline reversion of the employing State department, agency, or institution.

(c) Savings generated by suggestions and innovations shall be determined at the end of the fiscal year in which the suggestion or innovation is implemented. Any savings are to be calculated using the actual expenditures for a program, activity, or service compared to the budgeted amount for the same, if an amount has been budgeted for the program, activity, or service. The savings calculation shall include the amount of any reversions in excess

of the baseline reversion. The savings or revenue increases realized from any suggestion or innovation implemented for less than one full fiscal year shall be annualized. Any savings realized through the State Employee Incentive Bonus Program shall be weighed against continued service to the public.

(d) If a suggestion or innovation affects a program, activity, or service for which no separate budgeted amount has been made, the State Coordinator, in conjunction with the agency evaluator for that suggestion or innovation, shall determine the budgetary impact of the suggestion or innovation.

"§ 143-345.12. Allocation of incentive bonus funds; nonmonetary recognition.

(a) If a State employee's suggestion or innovation results in a monetary savings or increased revenue to the State, the funds saved or increased shall be distributed according to the following scale:

- (1) Twenty percent (20%) of the annualized savings or increased revenues, up to a maximum of twenty thousand dollars (\$20,000) for any one State employee, to constitute gainsharing. If a team of State employees is the suggester, the bonus provided in this subdivision shall be divided equally among the team members, except that no team member may receive in excess of twenty thousand dollars (\$20,000), nor may the team receive an aggregate amount in excess of one hundred thousand dollars (\$100,000).
- (2) Thirty percent (30%) to a performance bonus reserve for all current employees of the employing unit of the suggester, to be distributed according to G.S. 126-7, the Comprehensive Compensation System for State employees, or according to the performance bonus compensation system in which the suggester's employing unit participates.
- (3) The remainder to the General Fund for nonrecurring budget items.

(b) The budget of a State agency shall not be reduced in the following fiscal year by an amount similar to the monetary savings or increased revenues realized by the State Employee Incentive Bonus Program. The agency budget shall be reduced in subsequent years only if structural or organizational changes are made that warrant the reductions, including the transfer of responsibility for an activity or service to another agency or the elimination of some function of State government.

(c) If a suggestion or innovation results in improved quality of services to the public or to other State agencies, departments, and institutions, but not in monetary savings to the State, the suggester shall receive a nonmonetary award in the form of a certificate, leave with pay, or other similar recognition.

"§ 143-345.13. Suggestion and review process; role of agency coordinator and agency evaluator.

(a) The process for a State employee or team of State employees to submit a cost-saving or revenue-increasing proposal shall begin by the employee or team of employees submitting the suggestion or innovation to an agency coordinator designated by the State department, agency, or institution impacted by the suggestion or innovation. The agency

coordinator, in conjunction with an agency evaluator, shall review the suggestion or innovation for submission to the Review Committee established in G.S. 143-345.14.

(b) The duties of the agency coordinator shall include:

- (1) Serving as an information source and maintaining sufficient forms necessary to submit suggestions.
- (2) Responsibility for presenting, in conjunction with the agency evaluator, the plan of implementation for a suggestion or innovation to the Review Committee.
- (3) Working in conjunction with the agency evaluator designated by the State Coordinator for a particular suggestion or innovation.

An agency may have more than one coordinator if required to provide sufficient services to State employees.

(c) The duties of an agency evaluator shall include:

- (1) Reviewing the feasibility and effectiveness of cost-saving or revenue-increasing measures suggested by State employees.
- (2) Being knowledgeable of the subject program, activity, or service.
- (3) Determining, in conjunction with the agency fiscal officer, the budgetary impact of a suggestion or innovation.
- (4) Judging impartially both the positive and negative effects of a suggestion or innovation on the current functions of the subject program, activity, or service.

The specific assignments of the agency evaluator shall be determined by the agency coordinator.

(d) The State Coordinator shall be responsible for general oversight and coordination of the State Employee Incentive Bonus Program. The State Coordinator shall be a State employee working in the Department of Administration.

"§ 143-345.14. Incentive Bonus Review Committee.

(a) The Incentive Bonus Review Committee, hereinafter 'Review Committee', shall consist of nine members, as follows:

- (1) The State Coordinator.
- (2) A representative of the Office of State Budget and Management.
- (3) A representative of the Office of State Personnel.
- (4) A representative of The University of North Carolina.
- (5) A representative of the Department of Justice.
- (6) A representative of the Department of Labor.
- (7) One State employee appointed by the Speaker of the House of Representatives.
- (8) One State employee appointed by the President Pro Tempore of the Senate.
- (9) One State employee appointed by the Governor upon the recommendation of the State Employees Association of North Carolina, Inc.

(b) The duties of the Review Committee shall include:

- (1) Responsibility for receiving from the various agency coordinators recommendations on suggestion and innovation implementation plans.

- (2) Determining the impact of a suggestion or innovation on State government services by judging the monetary savings, increased revenues, or improved quality of services generated by a suggestion or innovation.
- (3) Ensuring that the State employee incentive bonus process does not result in a negative impact on services provided to taxpayers by State government.

(c) All administrative, management, clerical, and other functions and services required by the Review Committee shall be supplied by the Department of Administration. The Department of Administration and the Review Committee shall report annually to the Joint Legislative Commission on Governmental Operations on the administration of the State Employee Incentive Bonus Program.

"§ 143-345.15. Effect of decisions regarding bonuses.

All suggestions or innovations submitted by State employees pursuant to this Article are the property of the State. Decisions regarding the award of bonuses by the agency coordinator and the Review Committee are final and are not subject to review under the contested case procedures of Chapter 150B of the General Statutes."

Section 3. G.S. 143-340(1) reads as rewritten:

- "(1) To establish a meritorious service award system for State employee suggestions which may include cash awards to be paid from savings resulting from the adoption of employee suggestions, but in no case shall the cash award exceed twenty-five percent (25%) of the savings resulting during the first year following adoption or a maximum of five thousand dollars (\$5,000), the State Employee Incentive Bonus Program pursuant to Article 36A of this Chapter, with the authority to adopt all rules necessary to implement the program."

Section 4. This act shall not be construed to obligate the General Assembly to make any appropriation to implement the provisions of this act. Each State agency to which this act applies shall implement the provisions of this act from funds otherwise appropriated to that State agency.

Section 5. Section 1 of this act is effective when it becomes law, applies to charges pending or filed on and after that date, and expires December 31, 1998. The remainder of this act becomes effective July 1, 1997, and applies to all suggestions and innovations pending on that date that were submitted under the former State Employee Suggestion Program as authorized by G.S. 143-340(1) on or before June 30, 1997.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law upon approval of the Governor at 10:29 a.m. on the 17th day of September, 1997.

S.B. 780

CHAPTER 514

AN ACT REQUIRING THAT NONRESIDENT PHYSICIANS WHO TREAT PATIENTS IN THIS STATE THROUGH THE USE OF ELECTRONIC OR OTHER MEDIUMS SHALL BE LICENSED IN

THIS STATE AND SHALL BE SUBJECT TO REASONABLE REGULATIONS BY THE NORTH CAROLINA MEDICAL BOARD.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-18 reads as rewritten:

"§ 90-18. *Practicing without license; practicing defined; penalties.*

(a) No person shall practice medicine or surgery, or any of the branches thereof, nor in any case prescribe for the cure of diseases unless ~~he~~ the person shall have been first licensed and registered so to do in the manner provided in this Article, and if any person shall practice medicine or surgery without being duly licensed and registered, as provided in this Article, ~~he~~ the person shall not be allowed to maintain any action to collect any fee for such services. The person so practicing without license shall be guilty of a Class 1 misdemeanor.

(b) Any person shall be regarded as practicing medicine or surgery within the meaning of this Article who shall diagnose or attempt to diagnose, treat or attempt to treat, operate or attempt to operate on, or prescribe for or administer to, or profess to treat any human ailment, physical or mental, or any physical injury to or deformity of another ~~person;~~ person. A person who resides in any state and who, by use of any electronic or other mediums, performs any of the acts described in this subsection shall be regarded as practicing medicine or surgery and shall be subject to the provisions of this Article and appropriate regulation by the North Carolina Medical Board.

(c) ~~Provided, that the~~ The following cases shall not come within the definition above recited; constitute practicing medicine or surgery as defined in subsection (b) of this section:

- (1) The administration of domestic or family remedies in cases of emergency.
- (2) The practice of dentistry by any legally licensed dentist engaged in the practice of dentistry and dental surgery.
- (3) The practice of pharmacy by any legally licensed pharmacist engaged in the practice of pharmacy.
- (4) The practice of medicine and surgery by any surgeon or physician of the United States army, navy, or public health service in the discharge of his official duties.
- (5) The treatment of the sick or suffering by mental or spiritual means without the use of any drugs or other material means.
- (6) The practice of optometry by any legally licensed optometrist engaged in the practice of optometry.
- (7) The practice of midwifery as defined in G.S. 90-178.2.
- (8) The practice of chiropody by any legally licensed chiropodist when engaged in the practice of chiropody, and without the use of any drug.
- (9) The practice of osteopathy by any legally licensed osteopath when engaged in the practice of osteopathy as defined by law, and especially G.S. 90-129.

- (10) The practice of chiropractic by any legally licensed chiropractor when engaged in the practice of chiropractic as defined by law, and without the use of any drug or surgery.
- (11) The practice of medicine or surgery by any nonregistered reputable physician or surgeon in a neighboring state coming who comes into this State for consultation State, either in person or by use of any electronic or other mediums, on an irregular basis, to consult with a resident registered physician, physician or to consult with personnel at a medical school about educational or medical training. This proviso shall not apply to physicians resident in a neighboring state and regularly practicing in this State.
- (12) Any person practicing radiology as hereinafter defined shall be deemed to be engaged in the practice of medicine within the meaning of this Article. "Radiology" shall be defined as, that method of medical practice in which demonstration and examination of the normal and abnormal structures, parts or functions of the human body are made by use of X ray. Any person shall be regarded as engaged in the practice of radiology who makes or offers to make, for a consideration, a demonstration or examination of a human being or a part or parts of a human body by means of fluoroscopic exhibition or by the shadow imagery registered with photographic materials and the use of X rays; or holds himself out to diagnose or able to make or makes any interpretation or explanation by word of mouth, writing or otherwise of the meaning of such fluoroscopic or registered shadow imagery of any part of the human body by use of X rays; or who treats any disease or condition of the human body by the application of X rays or radium. Nothing in this subdivision shall prevent the practice of radiology by any person licensed under the provisions of Articles 2, 7, 8, and 12A of this Chapter.
- (13) Any act, task or function performed by an assistant to a person licensed as a physician by the North Carolina Medical Board when
 - a. Such assistant is approved by and annually registered with the Board as one qualified by training or experience to function as an assistant to a physician, except that no more than two assistants may be currently registered for any physician, and
 - b. Such act, task or function is performed at the direction or under the supervision of such physician, in accordance with rules and regulations promulgated by the Board, and
 - c. The services of the assistant are limited to assisting the physician in the particular field or fields for which the assistant has been trained, approved and registered;Provided that this subdivision shall not limit or prevent any physician from delegating to a qualified person any acts, tasks or functions which are otherwise permitted by law or established by custom.

- (14) The practice of nursing by a registered nurse engaged in the practice of nursing and the performance of acts otherwise constituting medical practice by a registered nurse when performed in accordance with rules and regulations developed by a joint subcommittee of the North Carolina Medical Board and the Board of Nursing and adopted by both boards.
- (15) The practice of dietetics/nutrition by a licensed dietitian/nutritionist under the provisions of Article 25 of this Chapter.
- (16) The practice of acupuncture by a licensed acupuncturist in accordance with the provisions of Article 30 of this Chapter."

Section 2. Article 1B of Chapter 90 of the General Statutes is amended by adding a new section to read:

"§ 90-21.12A. Nonresident physicians.

A patient may bring a medical malpractice claim in the courts of this State against a nonresident physician who practices medicine or surgery by use of any electronic or other media in this State."

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law upon approval of the Governor at 10:30 a.m. on the 17th day of September, 1997.

S.B. 1

CHAPTER 515

AN ACT TO CHANGE THE FILING SCHEDULE OF CAMPAIGN REPORTS; TO REQUIRE THE LISTING OF A CONTRIBUTOR'S PRINCIPAL OCCUPATION AND TO PROVIDE FOR A "BEST EFFORTS" RULE; TO REQUIRE THAT COORDINATED PARTY EXPENDITURES BE REPORTED; TO EXPAND REPORTING IN LOCAL ELECTIONS AND REFERENDA AND TO SET A THREE THOUSAND DOLLAR THRESHOLD FOR REPORTING GENERALLY; TO REQUIRE ELECTRONIC FILING OF CERTAIN CAMPAIGN REPORTS AND INTERNET ACCESS; TO PROVIDE FOR CIVIL PENALTIES FOR LATE FILING OF CAMPAIGN REPORTS; TO CLOSE THE SECOND PRIMARY LOOPHOLE FOR CONTRIBUTION LIMITS; TO REWRITE AND EXPAND THE LIMITS ON FUND-RAISING DURING LEGISLATIVE SESSIONS; TO CHANGE THE METHOD FOR DISTRIBUTING MONEY FROM THE POLITICAL PARTIES FINANCING FUND; TO REQUIRE THE DISCLOSURE OF SPENDING FOR MATERIAL THAT NAMES CANDIDATES; TO DISCLOSE THE FLOW OF MONEY THROUGH NORTH CAROLINA AND NATIONAL POLITICAL ORGANIZATIONS; TO PROHIBIT A DECLARED COUNCIL OF STATE CANDIDATE FROM USING STATE FUNDS FOR ADS AND ANNOUNCEMENTS CONTAINING THE CANDIDATE'S NAME, PICTURE, OR VOICE DURING THE CALENDAR YEAR PRECEDING AN ELECTION; AND TO REQUIRE 12-POINT DISCLAIMERS IN OPPOSITION PRINT ADS.

The General Assembly of North Carolina enacts:

-- QUARTERLY AND SEMIANNUAL REPORTING.

Section 1. (a) G.S. 163-278.9(a) reads as rewritten:

"(a) The Except as provided in G.S. 163-278.10A, the treasurer of each candidate and of each political committee shall file under verification with the Board the following reports:

- (1) Organizational Report. -- The appointment of the treasurer as required by G.S. 163-278.7(a), the statement of organization required by G.S. 163-278.7(b), and a report of all contributions and expenditures not previously reported shall be filed with the Board no later than the tenth day following the day the candidate files his notice of candidacy or the tenth day following the organization of the political committee, whichever occurs first. Any candidate whose campaign is being conducted by a political committee which is handling all contributions and expenditures for his campaign shall file a statement with the Board stating such fact at the time required herein for the organizational report. Thereafter, the candidate's political committee shall be responsible for filing all reports required by law.
- (2) Preprimary Report. -- The treasurer shall file a report with the Board no later than the tenth day preceding the primary election. A candidate who is not on the ballot in the primary and who has filed a first quarter report pursuant to subdivision (5a) of this subsection shall not be required to file a separate preprimary report under this subdivision.
- (3) Postprimary Report(s). -- ~~The treasurer shall file a report with the Board no later than the 30th day after the primary election if the candidate was eliminated in the primary. If there is a second primary, the treasurer shall file a report with the Board no later than the 30th day after the second primary election if the candidate was eliminated in the second primary.~~
- (4) Preelection Report. -- ~~The treasurer shall file a report with the Board not later than the tenth day preceding the general election.~~
- (5) Repealed by Session Laws 1985, c. 164, s. 1.
- (5a) Quarterly Reports. -- During even-numbered years during which there is an election for that candidate or in which the campaign committee is supporting a candidate, the treasurer shall file a report by mailing or otherwise delivering it to the Board no later than seven working days after the end of each calendar quarter covering the prior calendar quarter, except that the report for the third quarter shall also cover the period in October through the seventeenth day before the election, the third quarter report shall be due seven days after that date, and the fourth quarter report shall not include that period if a third quarter report was required to be filed.
- (6) Annual Semiannual Reports. -- If contributions are received or expenditures made during a calendar year, for which no reports are otherwise required by this Article, any and all such contributions and expenditures shall be reported by the last

Friday in January July, covering the period through the last day of June, and shall be reported by the last Friday in January, covering the period through the last day of December, of the following year."

(b) The State Board of Elections shall study the feasibility of requiring monthly reporting by campaign treasurers during even-numbered years, with weekly reports required during the month before each primary and election. The State Board shall report in writing to the General Assembly by March 1, 1998.

(c) Subsection (a) of this section becomes effective January 1, 1998, and applies to all financial activity occurring on or after that date. Subsection (b) of this section is effective when it becomes law.

--DONOR'S PRINCIPAL OCCUPATION; BEST EFFORTS RULE.

Section 2. (a) G.S. 163-278.11(a)(1) reads as rewritten:

"(1) Contributions. -- A list of all contributions required to be listed under G.S. 163-278.8 received by or on behalf of a candidate, political committee, or referendum committee. The statement shall list the name and complete mailing address of each contributor, the amount contributed, the principal occupation of the contributor, and the date such contribution was received. The total sum of all contributions to date shall be plainly exhibited. Forms for required reports shall be prescribed by the Board. As used in this section, 'principal occupation of the contributor' means the contributor's:

a. Job title or profession; and

b. Employer's name or employer's specific field of business activity.

The State Board of Elections shall prepare a schedule of specific fields of business activity, adapting or modifying as it deems suitable the business activity classifications of the Internal Revenue Code or other relevant classification schedules. In reporting a contributor's specific field of business activity, the treasurer shall use the classification schedule prepared by the State Board."

(b) G.S. 163-278.11 is amended by adding a new subsection to read:

"(c) Best Efforts. -- When a treasurer shows that best efforts have been used to obtain, maintain, and submit the information required by this Article for the candidate or political committee, any report of that candidate or committee shall be considered in compliance with this Article. The State Board of Elections shall promulgate rules that specify what are 'best efforts' for purposes of this Article, adapting as it deems suitable the provisions of 11 C.F.R. § 104.7. The rules shall include the provision that if the treasurer, after complying with the rules, does not know the occupation of the contributor, it shall suffice for the treasurer to report 'unable to obtain'."

(c) This section becomes effective February 1, 1998, and applies to all reports due on or after that date.

-- REPORTING OF COORDINATED EXPENDITURES.

Section 3. (a) G.S. 163-278.11(b) reads as rewritten:

"(b) Statements shall reflect anything of value paid for or contributed by any person or individual, both as a contribution and expenditure. A political party executive committee that makes an expenditure that benefits a candidate or group of candidates shall report the expenditure, including the date, amount, and purpose of the expenditure and the name of and office sought by the candidate or candidates on whose behalf the expenditure was made. A candidate who benefits from the expenditure shall report the expenditure or the proportionate share of the expenditure from which the candidate benefitted as an in-kind contribution if the candidate or the candidate's committee has coordinated with the political party executive committee concerning the expenditure."

(b) This section becomes effective February 1, 1998, and applies to all reports due on or after that date.

-- EXPANDED REPORTING IN LOCAL ELECTIONS AND REFERENDA; \$3,000 THRESHOLD FOR ALL REPORTING.

Section 4. (a) G.S. 163-278.6(1) reads as rewritten:

"(1) The term 'board' means the State Board of Elections with respect to all candidates for State and multi-county district offices and the county or municipal board of elections with respect to all candidates for single-county district, county and municipal offices. The term means the State Board of Elections with respect to all statewide ~~referenda~~, referenda and the county or municipal board of elections conducting all local referenda."

(b) G.S. 163-278.6(18) reads as rewritten:

"(18) The term 'public office' means any office filled by election by the people on a statewide, county, municipal or district basis, and this Article shall be applicable to such elective offices whether the election therefor is partisan or ~~nonpartisan~~, provided candidates for municipal and county offices in those municipalities and counties having less than 50,000 population, according to the most recent decennial census figures, shall not be required to file reports required by this Article, but this Article shall otherwise be applicable to such candidates for municipal and county offices. nonpartisan."

(c) G.S. 163-278.6(18a) reads as rewritten:

"(18a) The term 'referendum' means any question, issue, or act referred to a vote of the people of the entire State by the General Assembly Assembly, a unit of local government, or by the people under any applicable local act and includes constitutional amendments and State bond issues. The term 'referendum' ~~does not include~~ includes any type of municipal, county, or special district referendum."

(d) G.S. 163-278.40(2) reads as rewritten:

"(2) The term 'city' means any incorporated city, town, or ~~village with a population of 50,000 or over, according to the most recent decennial federal census.~~ village."

(d1) G.S. 163-278.9(d) reads as rewritten:

"(d) Candidates and committees for municipal offices ~~in a city with a population of 50,000 or greater, which are required to submit reports by~~

G.S. 163-278.6(18) are not subject to subsections (a), (b) and (c) of this section. Reports for those candidates and committees are covered by Part 2 of this Article."

(c) G.S. 163-278.10A reads as rewritten:

"§ 163-278.10A. Threshold of ~~\$1,000.00~~ \$3,000 for Financial Reports.

(a) Notwithstanding any other provision of this Chapter, a candidate shall be exempted from the reports of contributions, loans, and expenditures required in G.S. 163-278.9(a), 163-278.40B, 163-278.40C, 163-278.40D, and 163-278.40E if to further his campaign that candidate:

- (1) Does not receive more than one ~~three~~ thousand dollars (~~\$1,000.00~~) (\$3,000) in contributions, and
- (2) Does not receive more than one ~~three~~ thousand dollars (~~\$1,000.00~~) (\$3,000) in loans, and
- (3) Does not spend more than one ~~three~~ thousand dollars (~~\$1,000.00~~) (\$3,000).

To qualify for the exemption from those reports, the candidate's treasurer shall file a certification under oath that he does not intend to receive in contributions or loans or expend more than one ~~three~~ thousand dollars (~~\$1,000.00~~) (\$3,000) to further his campaign. The certification shall be filed with the Board at the same time the candidate files his Organizational Report as required in G.S. 163-278.7, G.S. 163-278.9, and G.S. 163-278.40A. If the candidate's campaign is being conducted by a political committee which is handling all contributions, loans, and expenditures for his campaign, the treasurer of the political committee shall file a certification of intent to stay within the threshold amount. If the intent to stay within the threshold changes, or if the \$1,000 ~~three thousand dollar~~ (\$3,000) threshold is exceeded, the treasurer shall immediately notify the Board and shall be responsible for filing all reports required in G.S. 163-278.9 and 163-278.40B, 163-278.40C, 163-278.40D, and 163-278.40E; provided that any contribution, loan, or expenditure which would have been required to be reported on an earlier report but for this section shall be included on the next report required after the intent changes or the threshold is exceeded.

(b) The exemption in subsection (a) of this section applies to political party committees under the same terms as for candidates, except that the term 'to further his campaign' does not relate to a political party committee's exemption, and all contributions, expenditures, and loans during an election shall be counted against the political party committee's threshold amount."

(f) This section applies to primaries, elections, and referenda beginning in 1998.

-- ELECTRONIC REPORTING.

Section 5. (a) G.S. 163-278.9 is amended by adding a new subsection to read:

"(j) Treasurers for the following entities shall electronically file each report required by this section that shows in excess of five thousand dollars (\$5,000) in contributions, in expenditures, or in loans, according to rules adopted by the State Board of Elections:

- (1) A candidate for statewide office;
- (2) A State, district, county, or precinct executive committee of a political party, if the committee makes contributions or

- independent expenditures in excess of five thousand dollars (\$5,000) that affect contests for statewide office;
- (3) A political committee that makes contributions in excess of five thousand dollars (\$5,000) to candidates for statewide office or makes independent expenditures in excess of five thousand dollars (\$5,000) that affect contests for statewide office.

The State Board of Elections shall provide the software necessary to file an electronic report to a treasurer required to file an electronic report at no cost to the treasurer."

(b) This section applies to reports to be filed during or after 1998.

-- INTERNET ACCESS.

Section 6. The State Board of Elections shall provide full access to the public of campaign finance reports over the Internet as soon as technically feasible.

-- CIVIL PENALTIES FOR LATE FILING.

Section 7. (a) G.S. 163-278.34 reads as rewritten:

"§ 163-278.34. *Filings; penalty for late filings.*

(a) All Except as provided in G.S. 163-278.9, all reports, statements or other documents required by this Article to be filed with the Board shall be filed either by manual delivery to or by certified or registered mail addressed to the Board. Timely filing shall be complete if postmarked on the day the reports, statements or other documents are to be delivered to the Board. If a report, statement or other document is not filed within the time required by this Article, then the individual, person, media, candidate, political committee, referendum committee or treasurer responsible for filing shall pay to the State Board of Elections election enforcement costs and a civil late penalty of twenty dollars (\$20.00) per day for each day the filing is late not to exceed five days, as follows:

- (1) Two hundred fifty dollars (\$250.00) per day for each day the filing is late for a report that affects statewide elections, not to exceed a total of ten thousand dollars (\$10,000); and
- (2) Fifty dollars (\$50.00) per day for each day the filing is late for a report that affects only nonstatewide elections, not to exceed a total of five hundred dollars (\$500.00).

The State Board shall immediately notify, or cause to be notified, late filers, from which reports are apparently due, by registered or certified mail, return receipt requested, of the penalties under this section. If the penalty has not been paid to or the report has not been filed with the Board within five days after receipt of the notification, then the Board shall report the late filing or failure to file to the appropriate district attorney who shall indict and prosecute the offender as required in G.S. 163-278.27. No criminal penalty shall be imposed if the penalty required by this section is paid and the delinquent report is filed within five days after notification by the Board.

(a1) The State Board shall calculate and assess the amount of the civil penalty due under subsection (a) of this section and shall notify the person who is assessed the civil penalty of the amount. The notice of assessment shall be served by any means authorized under G.S. 1A-1, Rule 4, and shall direct the violator either to pay the assessment or to contest the assessment within 30 days by filing a petition for a contested case under Article 3 of

Chapter 150B of the General Statutes. If a violator does not pay a civil penalty assessed by the Board within 30 days after it is due, the Board shall request the Attorney General to institute a civil action to recover the amount of the assessment. The civil action may be brought in the superior court of any county where the report was due to be filed or any county where the violator resides or maintains an office. A civil action must be filed within three years of the date the assessment was due. An assessment that is not contested is due when the violator is served with a notice of assessment. An assessment that is contested is due at the conclusion of the administrative and judicial review of the assessment. Consistent with G.S. 115C-437, the State Controller shall pay the clear proceeds of civil penalties collected under this section to the County School Fund in the county in which the person charged with the violation resides. The State Controller shall reduce the monies collected by the enforcement costs and the collection costs to determine the clear proceeds payable to the County School Fund. Monies set aside for the costs of enforcement and the costs of collection shall be credited to accounts of the State Board of Elections.

(b) When a report, statement or other document, required by this Article is not apparently due (i.e., media, inactive candidate, individual, no organizational report filed, supplementary final report or annual report), the Board shall notify, as set forth above, the person or persons responsible for filing if information is presented indicating that the report, statement, or other document was in fact due. No criminal penalties shall be imposed if the late penalty is paid and the delinquent report is filed within five days after notification. The State Board of Elections may waive a late penalty if it determines there is reasonable cause."

(b) G.S. 163-278.6 is amended by adding a new subdivision to read:

"(7a) The term 'costs of collection' means monies spent by the State Board of Elections in the collection of the penalties levied under this Article to the extent the costs do not constitute more than fifty percent (50%) of the civil penalty. The costs are presumed to be ten percent (10%) of the civil penalty unless otherwise determined by the State Board of Elections based on the records of expenses incurred by the State Board of Elections for its collection procedures."

(c) G.S. 163-278.6 is amended by adding a new subdivision to read:

"(7b) The term 'day' means calendar day."

(d) G.S. 163-278.6 is amended by adding a new subdivision to read:

"(8a) The term 'enforcement costs' means salaries, overhead, and other monies spent by the State Board of Elections in the enforcement of the penalties provisions of this Article, including the costs of investigators, attorneys, travel costs for State Board employees and its attorneys, to the extent the costs do not constitute more than fifty percent (50%) of the sum levied for the enforcement costs and civil late penalty."

(e) G.S. 163-278.22 is amended by adding a new subdivision to read:

"(14) To calculate, assess, and collect civil penalties pursuant to this Article."

(f) This section becomes effective January 1, 1998, and applies to all reports due on or after that date.

--CLOSE THE LOOPHOLE FOR SECOND PRIMARIES.

Section 8. (a) G.S. 163-278.13(d) reads as rewritten:

"(d) For the purposes of this section, the term 'an election' means any primary, second primary, or general election in which the candidate or political committee may be involved, without regard to whether the candidate is opposed or unopposed in the ~~election~~, election, except that where a candidate is not on the ballot in a second primary, that second primary is not 'an election' with respect to that candidate."

(b) This section becomes effective January 1, 1998, and applies to all elections occurring on or after that date.

-- FUND-RAISING IN SESSION.

Section 9. (a) G.S. 163-278.13A is repealed.

(b) Article 22A of the General Statutes is amended by adding a new section to read:

"§ 163-278.13B. Limitation on fund-raising during legislative session.

(a) Definitions. -- For purposes of this section:

(1) 'Limited contributor' means a lobbyist registered pursuant to Article 9A of Chapter 120 of the General Statutes, that lobbyist's agent, or a political committee that employs or contracts with or whose parent entity employs or contracts with a lobbyist registered pursuant to Article 9A of Chapter 120 of the General Statutes.

(2) 'Limited contributee' means a member of or candidate for the Council of State, a member of or candidate for the General Assembly, or a political committee the purpose of which is to assist a member or members of or candidate or candidates for the Council of State or General Assembly.

(3) The General Assembly is in 'regular session' from the date set by law or resolution that the General Assembly convenes until the General Assembly either adjourns sine die or recesses or adjourns for more than 10 days.

(4) A contribution is 'made' during regular session if the check or other instrument is dated during the session, or if the check or other instrument is delivered to the limited contributee during session, or if the limited contributor pledges during the session to deliver the check or other instrument at a later time.

(5) A contribution is 'accepted' during regular session if the check or other instrument is dated during the session, or if the limited contributee receives the check or other instrument during session and does not return it within 10 days, or agrees during session to receive the check or other instrument at a later time.

(b) Prohibited Solicitations. -- While the General Assembly is in regular session, no limited contributee or the real or purported agent of a limited contributee shall:

(1) Solicit a contribution from a limited contributor to be made to that limited contributee or to be made to any other candidate, officeholder, or political committee; or

- (2) Solicit a third party, requesting or directing that the third party directly or indirectly relay to the prohibited contributor the prohibited contributee's solicitation of a contribution.

(c) Prohibited Contributions. -- While the General Assembly is in regular session:

- (1) No limited contributor shall make or offer to make a contribution to a limited contributee.
- (2) No limited contributor shall make a contribution to any candidate, officeholder, or political committee, directing or requesting that the contribution be made in turn to a limited contributee.
- (3) No limited contributor shall transfer any amount of money or anything of value to any entity, directing or requesting that the entity use what was transferred to contribute to a limited contributee.
- (4) No limited contributee shall accept a contribution from a limited contributor.

(c1) Exception. -- The provisions of this section do not apply with regard to a limited contributee during the three weeks prior to the day of a second primary if that limited contributee is a candidate who will be on the ballot in that second primary.

(d) Prosecution. -- A violation of this section is a Class 2 misdemeanor."

(c) This section becomes effective January 1, 1998, and applies to all contributions solicited, made, or accepted on or after that date.

-- CHANGE THE METHOD OF DISTRIBUTING MONEY FROM THE POLITICAL PARTIES FINANCING FUND.

Section 10. (a) G.S. 105-159.1(a) reads as rewritten:

"(a) Every individual whose income tax liability for the taxable year is one dollar (\$1.00) or more may designate on his or her income tax return that one dollar (\$1.00) of the tax shall be credited to the North Carolina Political Parties Financing Fund. Fund for the use of the political party designated by the taxpayer. In the case of a married couple filing a joint return whose income tax liability for the taxable year is two dollars (\$2.00) or more, each spouse may designate on the income tax return that one dollar (\$1.00) of the tax shall be credited to the North Carolina Political Parties Financing Fund. Fund for the use of the political party designated by the taxpayer. Amounts credited to the Fund shall be allocated among the political parties according to the designation of the taxpayer. Where any taxpayer elects to designate but does not specify a particular political party, those funds shall be distributed among the political parties on a pro rata basis according to their respective party voter registrations as determined by the most recent certification of the State Board of Elections. As used in this section, the term 'political party' means one of the following that has at least one percent (1%) of the total number of registered voters in the State:

- (1) A political party that at the last preceding general State election received at least ten percent (10%) of the entire vote cast in the State for Governor or for presidential electors.
- (2) A group of voters who by July 1 of the preceding calendar year, by virtue of a petition as a new political party, had duly qualified

as a new political party within the meaning of Chapter 163 of the General Statutes."

(b) This section becomes effective with respect to the 1997 taxable year and subsequent taxable years.

--DISCLOSURE OF SPENDING FOR MATERIAL THAT NAMES CANDIDATES.

Section 11. (a) Article 22A of Chapter 163 of the General Statutes is amended by adding a new section to read:

"§ 163-278.12A. Disclosure of spending for material that names candidates.

(a) General Duty to Report. -- Any individual, person, political committee, or other entity that makes an expenditure for printed material or advertisements broadcast or distributed to anyone other than members of the entity shall report those expenditures in accordance with subsection (b) of this section if the printed material or advertisement names a candidate or names an individual whose prospective or potential candidacy is the principal purpose of a political committee. The disclosure requirements of this section do not apply to the following:

- (1) Material that is solely informational and is not intended to advocate the election or defeat of a candidate or prospective candidate; or
- (2) The owner of a newspaper, magazine, radio outlet, or television outlet, if that owner is not a candidate, political committee, or the parent entity of a political committee under G.S. 163-278.19.

(b) Procedures for Reporting; Exceptions. -- Any political committee or other entity otherwise required by this Article to file reports with a board of elections shall include an expenditure described in subsection (a) of this section on those reports. Any entity not otherwise required by this Article to file reports shall report expenditures described in subsection (a) of this section to the State Board of Elections within 10 days after the aggregate expenditure has reached the lowest threshold amount set for candidates and political party committees in G.S. 163-278.10A. After the initial report, each entity shall report subsequent expenditures described in subsection (a) of this section according to the schedule set out in G.S. 163-278.9(a) or Part 2 of this Article, whichever is appropriate.

(c) Definition. -- For the purpose of this section, notwithstanding G.S. 163-278.6(9), the term 'expenditure' means any purchase, advance, conveyance, deposit, distribution, transfer of funds, loans, payment, gift, pledge, or subscription of money or anything of value whatsoever, whether or not made in an election year, and any contract, agreement, promise, or other obligation, whether or not legally enforceable. An individual or entity is deemed to have made an expenditure for printed material or advertisements if that individual or entity has agreed to compensate another individual or entity for purchasing such printed material or advertisements.

(d) No Criminal Liability. -- No duty imposed by this section alone, and by no other law, shall be relied upon or otherwise interpreted to create criminal liability for any person."

(b) This section becomes effective December 1, 1997.

--DISCLOSING THE FLOW OF MONEY THROUGH NORTH CAROLINA AND NATIONAL POLITICAL ORGANIZATIONS.

Section 12. (a) G.S. 163-278.9(a) is amended by adding a new subdivision to read:

"(4a) 48-Hour Report. -- A political committee or political party that receives a contribution or transfer of funds from any political committee shall disclose within 48 hours of receipt a contribution or transfer of one thousand dollars (\$1,000) or more received after the last preelection report but before an election. The disclosure shall be by report to the State Board of Elections identifying the source and amount of the funds. The State Board of Elections shall specify the form and manner of making the report."

(b) G.S. 163-278.9A(a) is amended by adding a new subdivision to read:

"(2a) 48-Hour Report. -- A referendum committee that receives a contribution or transfer of funds from any political committee shall disclose within 48 hours of receipt a contribution or transfer of one thousand dollars (\$1,000) or more received after the last preelection report but before an election. The disclosure shall be by report to the State Board of Elections identifying the source and amount of such funds. The State Board of Elections shall specify the form and manner of making the report."

(c) This section becomes effective December 1, 1997.

--PROHIBIT A DECLARED COUNCIL OF STATE CANDIDATE FROM USING STATE FUNDS FOR ADS AND ANNOUNCEMENTS CONTAINING THE CANDIDATE'S NAME, PICTURE, OR VOICE DURING THE CALENDAR YEAR PRECEDING AN ELECTION.

Section 13. (a) Article 22A of Chapter 163 of the General Statutes is amended by adding a new section to read:

"§ 163-278.16A. Restriction on use of State funds by declared candidate for Council of State for advertising or public service announcements using their names, pictures, or voices.

After December 31 prior to a general election in which a Council of State office will be on the ballot, no declared candidate for that Council of State office shall use or permit the use of State funds for any advertisement or public service announcement in a newspaper, on radio, or on television that contains that declared candidate's name, picture, or voice, except in case of State or national emergency and only if the announcement is reasonably necessary to that candidate's official function. For purposes of this section, 'declared candidate' means someone who has publicly announced an intention to run."

(b) This section becomes effective January 1, 1998.

--REQUIRE 12-POINT DISCLAIMERS IN OPPOSITION PRINT ADS.

Section 13.1. (a) G.S. 163-278.16 is amended by adding a new subsection to read:

"(g) All printed matter for a political purpose from a political party or political committee which identifies a candidate that party or committee is opposing shall indicate in type no smaller than 12 point the name of the political party or political committee and the name of the candidate that is intended to benefit from the printed matter."

(b) This section becomes effective December 1, 1997.

Section 14. The provisions of this act are severable. If any provision is held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions of the act that can be given effect without the invalid provision.

Section 15. Except as otherwise provided herein, this act is effective when it becomes law. Prosecutions for, or sentences based on, offenses occurring before the relevant effective dates in this act are not abated or affected by this act, and the statutes that would be applicable to those prosecutions or sentences but for the provisions of this act remain applicable to those prosecutions or sentences.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law upon approval of the Governor at 10:32 a.m. on the 17th day of September, 1997.

S.B. 676

CHAPTER 516

AN ACT TO AMEND THE SEXUAL OFFENDER REGISTRATION PROGRAM TO COMPLY WITH FEDERAL LAW.

The General Assembly of North Carolina enacts:

Section 1. Article 27A of Chapter 14 of the General Statutes reads as rewritten:

"ARTICLE 27A.

~~"Sexual Offender Registration Program.~~~~"Sex Offender and Public Protection Registration Programs.~~~~"Part 1. Registration Programs, Purpose and Definitions Generally.~~~~"§ 14-208.5. Purpose.~~

The General Assembly recognizes that sex offenders often pose a high risk of engaging in sex offenses even after being released from incarceration or commitment and that protection of the public from sex offenders is of paramount governmental interest.

The General Assembly also recognizes that persons who commit certain other types of offenses against minors, such as kidnapping, pose significant and unacceptable threats to the public safety and welfare of the children in this State and that the protection of those children is of great governmental interest. Further, the General Assembly recognizes that local law enforcement officers' efforts to protect their communities, conduct investigations, and quickly apprehend offenders who commit sex offenses or certain offenses against minors are impaired by the lack of information available to law enforcement agencies about convicted sex offenders who live within the agency's jurisdiction. Release of information about sex these offenders will further the governmental interests of public safety so long as the information released is rationally related to the furtherance of those goals.

Therefore, it is the purpose of this Article to assist local law enforcement agencies' efforts to protect their communities by requiring sex offenders persons who are convicted of sex offenses or of certain other offenses

committed against minors to register with local law enforcement agencies and agencies, to require the exchange of relevant information about sex those offenders among law enforcement agencies agencies, and to authorize the access to necessary and relevant information about sex those offenders to others as provided in this Article.

"§ 14-208.6. *Definitions.*

The following definitions apply in this Article:

- (1a) 'County registry' means the information compiled by the sheriff of a county in compliance with this Article.
- (1)(1b) 'Division' means the Division of Criminal Statistics of the Department of Justice.
- (1c) 'Mental abnormality' means a congenital or acquired condition of a person that affects the emotional or volitional capacity of the person in a manner that predisposes that person to the commission of criminal sexual acts to a degree that makes the person a menace to the health and safety of others.
- (1d) 'Offense against a minor' means any of the following offenses if the offense is committed against a minor, and the person committing the offense is not the minor's parent or legal custodian: G.S. 14-39 (kidnapping), G.S. 14-41 (abduction of children), and G.S. 14-43.3 (felonious restraint).
- (2) 'Penal institution' means:
 - a. A detention facility operated under the jurisdiction of the Division of Prisons of the Department of Correction;
 - b. A detention facility operated under the jurisdiction of another state or the federal government; or
 - c. A detention facility operated by a local government in this State or another state.
- (2a) 'Personality disorder' means an enduring pattern of inner experience and behavior that deviates markedly from the expectations of the individual's culture, is pervasive and inflexible, has an onset in adolescence or early adulthood, is stable over time, and leads to distress or impairment.
- (3) 'Release' means discharged or paroled.
- (4) 'Reportable conviction' means:
 - a. A final conviction for an offense against a minor, a sexually violent offense, or an attempt to commit any of those offenses. ~~A final conviction for violation of G.S. 14-27.2 (first degree rape), 14-27.3 (second degree rape), 14-27.4 (first degree sexual offense), 14-27.5 (second degree sexual offense), 14-27.6 (attempted rape or sexual offense), 14-27.7 (intercourse and sexual offense with certain victims), 14-178 (incest between near relatives), 14-190.6 (employing or permitting minor to assist in offenses against public morality and decency), 14-190.16 (first degree sexual exploitation of a minor), 14-190.17 (second degree sexual exploitation of a minor), 14-190.17A (third degree sexual exploitation of a minor),~~

~~14-190.18 (promoting prostitution of a minor), 14-190.19 (participating in prostitution of a minor), or 14-202.1 (taking indecent liberties with children).~~

- b. ~~A final conviction in another state of an offense, which if committed in this State, would have been a sex offense as defined by the sections of the General Statutes set forth in paragraph a. of this subdivision. an offense against a minor or a sexually violent offense as defined by this section.~~
- c. ~~A final conviction in a federal jurisdiction of an offense which is substantially similar to an offense set forth in paragraph a. of this subdivision. offense, which is substantially similar to an offense against a minor or a sexually violent offense as defined by this section.~~

(5) 'Sexually violent offense' means a violation of G.S. 14-27.2 (first degree rape), G.S. 14-27.3 (second degree rape), G.S. 14-27.4 (first degree sexual offense), G.S. 14-27.5 (second degree sexual offense), G.S. 14-27.6 (attempted rape or sexual offense), G.S. 14-27.7 (intercourse and sexual offense with certain victims), G.S. 14-178 (incest between near relatives), G.S. 14-190.6 (employing or permitting minor to assist in offenses against public morality and decency), G.S. 14-190.16 (first degree sexual exploitation of a minor), G.S. 14-190.17 (second degree sexual exploitation of a minor), G.S. 14-190.17A (third degree sexual exploitation of a minor), G.S. 14-190.18 (promoting prostitution of a minor), G.S. 14-190.19 (participating in prostitution of a minor), or G.S. 14-202.1 (taking indecent liberties with children).

(6) 'Sexually violent predator' means a person who has been convicted of a sexually violent offense and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in sexually violent offenses directed at strangers or at a person with whom a relationship has been established or promoted for the primary purpose of victimization.

(4) (7) 'Sheriff' means the sheriff of a county in this State.

(8) 'Statewide registry' means the central registry compiled by the Division in accordance with G.S. 14-208.14.

"§ 14-208.6A. Registration requirements for criminal offenders and for criminal offenders determined to be sexually violent predators.

It is the objective of the General Assembly to establish a 10-year registration requirement for persons convicted of certain offenses against minors or sexually violent offenses. It is the further objective of the General Assembly to establish a more stringent set of registration requirements for a subclass of highly dangerous sex offenders who are determined by a sentencing court with the assistance of a board of experts to be sexually violent predators.

To accomplish this objective, there are established two registration programs: the Sex Offender and Public Protection Registration Program

and the Sexually Violent Predator Registration Program. Any person convicted of an offense against a minor or of a sexually violent offense as defined by this Article shall register as an offender in accordance with Part 2 of this Article. Any person determined to be a sexually violent predator shall register as such in accordance with Part 3 of this Article.

The information obtained under these programs shall be immediately shared with the appropriate local, State, federal, and out-of-state law enforcement officials and penal institutions. In addition, the information designated under G.S. 14-208.10(a) as public record shall be readily available to and accessible by the public. However, the identity of the victim is not public record and shall not be released as a public record.

"§ 14-208.6B. Registration requirements for juveniles transferred to and convicted in superior court.

A juvenile transferred to superior court pursuant to G.S. 7A-608 who is convicted of a sexually violent offense or an offense against a minor as defined in G.S. 14-208.6 shall register in accordance with this Article just as an adult convicted of the same offense must register.

"Part 2. Sex Offender and Public Protection Registration Program.

"§ 14-208.7. Registration.

(a) A person who is a State resident and who has a reportable conviction shall be required to maintain registration with the sheriff of the county where the person resides. If the person moves to North Carolina from outside this State, the person shall register within 10 days of establishing residence in this State, or whenever the person has been present in the State for 15 days, whichever comes first. If the person is a current resident of North Carolina, the person shall register:

- (1) Within 10 days of release from a penal institution or arrival in a county to live outside a penal institution; or
- (2) Immediately upon conviction for a reportable offense where an active term of imprisonment was not imposed.

Registration shall be maintained for a period of 10 years following release from a penal institution. If no active term of imprisonment was imposed, registration shall be maintained for a period of 10 years following each conviction for a reportable offense.

(b) The Division shall provide each sheriff with forms for registering persons as required by this Article. The registration form shall require:

- (1) The person's full name, each alias, date of birth, sex, race, height, weight, eye color, hair color, drivers license number, and home address;
- (2) The type of offense for which the person was convicted, the date of conviction, and the sentence imposed;
- (3) A current photograph; and
- (4) The person's fingerprints.

The sheriff shall photograph the individual at the time of registration and take fingerprints from the individual at the time of registration both of which will be kept as part of the registration form. The registrant will not be required to pay any fees for the photograph or fingerprints taken at the time of registration.

(c) ~~Not later than the third day after~~ When a person registers, the sheriff with whom the person registered shall immediately send the registration information to the Division in a manner determined by the Division. The sheriff shall retain the original registration form and other information ~~collected.~~ collected and shall compile the information that is a public record under this Part into a county registry.

"§ 14-208.8. Prerelease notification.

(a) At least 10 days, but not earlier than 30 days, before a person who will be subject to registration under this Article is due to be released from a penal institution, an official of the penal institution shall:

- (1) Inform the person of the person's duty to register under this Article and require the person to sign a written statement that the person was so informed or, if the person refuses to sign the statement, certify that the person was so informed;
- (2) Obtain the registration information required under G.S. 14-208.7 (b)(1) and (2), as well as the address where the person expects to reside upon the person's release; and
- (3) Send the Division and the sheriff of the county in which the person expects to reside the information collected in accordance with subdivision (2) of this subsection.

(b) If a person who is subject to registration under this Article does not receive an active term of imprisonment, the court pronouncing sentence shall conduct, at the time of sentencing, the notification procedures specified in subsection (a) of this section.

"§ 14-208.9. Change of address.

If a person required to register changes address, the person shall provide written notice of the new address not later than the tenth day after the change to the sheriff of the county with whom the person had last registered. ~~Not later than the third day after~~ Upon receipt of the notice, the sheriff shall immediately forward this information to the Division. If the person moves to another county in this State, the Division shall inform the sheriff of the new county of the person's new residence.

"§ 14-208.9A. Verification of registration information.

The information in the county registry shall be verified annually for each registrant as follows:

- (1) Every year on the anniversary of a person's initial registration date, the Division shall mail a nonforwardable verification form to the last reported address of the person.
- (2) The person shall return the verification form to the sheriff within 10 days after the receipt of the form.
- (3) The verification form shall be signed by the person and shall indicate whether the person still resides at the address last reported to the sheriff. If the person has a different address, then the person shall indicate that fact and the new address.
- (4) If the person fails to return the verification form to the sheriff within 10 days after receipt of the form, the person is subject to the penalties provided in G.S. 14-208.11. If the verification form is returned to the sheriff as undeliverable, the sheriff shall make a reasonable attempt to verify that the person is residing at the

registered address. If the person cannot be found at the registered address and has failed to report a change of address, the person is subject to the penalties provided in G.S. 14-208.11, unless the person reports in person to the sheriff and proves that the person has not changed his or her residential address.

"§ 14-208.10. Access Registration information is public record; access to registration information.

(a) To obtain information concerning an individual's registration status, a requester shall submit to the sheriff the following:

- (1) The individual's name and sex;
- (2) A physical description of the individual; and
- (3) Any other relevant information known to the requester concerning the individual.

Upon receipt of the information, the sheriff shall verify, in writing, to the requester whether the individual has registered as a sex offender in this State, the date of conviction, and the offenses for which registration was required. The registration information and the corresponding registry is a public record and shall be available for public inspection. The sheriff shall upon request, display any photograph provided in compliance with G.S. 14-208.7(b)(3); however, the sheriff shall not provide or allow a copy to be made of the photograph.

The following information regarding a person required to register under this Article is public record and shall be available for public inspection: name, sex, address, physical description, picture, conviction date, offense for which registration was required, the sentence imposed as a result of the conviction, and registration status. The information obtained under G.S. 14-208.22 regarding a person's medical records or documentation of treatment for the person's mental abnormality or personality disorder shall not be a part of the public record.

The sheriff shall release any other relevant information that is necessary to protect the public concerning a specific person, but shall not release the identity of the victim of the offense that required registration under this Article.

(b) Any person may obtain a copy of an individual's registration form, excluding the photograph, upon payment to the sheriff of a reasonable fee for the costs of duplicating the form, a part of the county registry, or all of the county registry, by submitting a written request for the information to the sheriff. However, the identity of the victim of an offense that requires registration under this Article shall not be released. The sheriff may charge a reasonable fee for duplicating costs and for mailing costs when appropriate.

(c) The sheriff of each county is authorized, upon written request, to provide a copy of the entire registry to any group, entity, organization, corporation, or school, that utilizes volunteers or employees in working with, caring for, supervising or protecting children or disabled or elderly persons. The sheriff may charge a reasonable fee for duplicating costs and for mailing costs when appropriate.

"§ 14-208.11. Failure to register; falsification of verification notice; failure to return verification form; order for arrest.

~~(a) A person required by this Article to register who, knowingly and with the intent to violate the provisions of this Article, fails to register shall be guilty of a Class 3 misdemeanor for a first conviction of a violation of this Article, and a Class I felony for a subsequent conviction of a violation of this Article, who does any of the following is guilty of a Class F felony:~~

- ~~(1) Fails to register.~~
- ~~(2) Fails to notify the last registering sheriff of a change of address.~~
- ~~(3) Fails to return a verification notice as required under G.S. 14-208.9A.~~
- ~~(4) Forges or submits under false pretenses the information or verification notices required under this Article.~~

~~(a) If a person commits a violation of subsection (a) of this section, the probation officer, parole officer, or any other law enforcement officer who is aware of the violation shall immediately arrest the person in accordance with G.S. 15A-401, or seek an order for the person's arrest in accordance with G.S. 15A-305.~~

~~(b) Before a person convicted of a violation of this Article is due to be released from a penal institution, an official of the penal institution shall conduct the prerelease notification procedures specified under G.S. 14-208.8(a)(2) and (3). If upon a conviction for a violation of this Article, no active term of imprisonment is imposed, the court pronouncing sentence shall, at the time of sentencing, conduct the notification procedures specified under G.S. 14-208.8(a)(2) and (3).~~

~~"§ 14-208.12. Exemption.~~

~~(a) A person who has a reportable conviction may petition the superior court in the county where the person resides for an exemption from this Article.~~

~~The person shall serve a copy of the petition on the district attorney. If the person shows for good cause, by clear and convincing evidence, that registration will not serve any useful purpose, the court shall grant the exemption.~~

~~(b) When a registered person presents the sheriff with a certified copy of the court order showing that an exemption has been granted, the sheriff shall remove any information from his records that was obtained pursuant to this Article. The sheriff shall then notify the Division of the exemption by sending a copy of the exemption to the Division within three days and the Division shall remove any information from its files obtained pursuant to this Article. The Division shall notify the registered person of the exemption by letter telling the registrant that the exemption has been accomplished.~~

~~"§ 14-208.12A. Termination of registration requirement.~~

~~(a) The requirement that a person register under this Part automatically terminates 10 years from the date of initial county registration if the person has not been convicted of a subsequent offense requiring registration under this Article.~~

~~(b) If there is a subsequent offense, the county registration records shall be retained until the registration requirement for the subsequent offense is terminated.~~

~~"§ 14-208.13. File with Police Information Network.~~

(a) The Division shall include the registration information in the Police Information Network as set forth in G.S. 114-10.1.

(b) ~~Except as provided in G.S. 14-208.12(b), the~~ The Division shall maintain the registration information permanently even after the registrant's reporting requirement expires.

"§ 14-208.14. Statewide registry; Division of Criminal Statistics designated custodian of statewide registry.

(a) The Division of Criminal Statistics shall compile and keep current a central statewide sex offender registry. The Division is the State agency designated as the custodian of the statewide registry. As custodian the Division has the following responsibilities:

- (1) To receive from the sheriff or any other law enforcement agency or penal institution all sex offender registrations, changes of address, and prerelease notifications required under this Article or under federal law. The Division shall also receive notices of any violation of this Article, including a failure to register or a failure to report a change of address.
- (2) To provide all need-to-know law enforcement agencies (local, State, federal, and those located in other states) immediately upon receipt by the Division of any of the following: registration information, a prerelease notification, a change of address, or notice of a violation of this Article.
- (3) To coordinate efforts among law enforcement agencies and penal institutions to ensure that the registration information, changes of address, prerelease notifications, and notices of failure to register or to report a change of address are conveyed in an appropriate and timely manner.
- (4) To provide public access to the statewide registry in accordance with this Article.

(b) The statewide registry shall include the following:

- (1) Registration information obtained by a sheriff or penal institution under this Article or from any other local or State law enforcement agency.
- (2) Registration information received from a state or local law enforcement agency or penal institution in another state.
- (3) Registration information received from a federal law enforcement agency or penal institution.

"§ 14-208.15. Certain statewide registry information is public record: access to statewide registry.

(a) The information in the statewide registry that is public record is the same as in G.S. 14-208.10. The Division shall release any other relevant information that is necessary to protect the public concerning a specific person, but shall not release the identity of the victim of the offense that required registration under this Article.

(b) The Division shall provide free public access to automated data from the statewide registry, including photographs provided by the registering sheriffs, via the Internet. The public will be able to access the statewide registry to view an individual registration record, a part of the statewide registry, or all of the statewide registry. The Division may also provide

copies of registry information to the public upon written request and may charge a reasonable fee for duplicating costs and mailings costs.

"Part 3. Sexually Violent Predator Registration Program.

"§ 14-208.20. Sexually violent predator determination; notice of intent; presentence investigation.

(a) When a person is charged by indictment or information with the commission of a sexually violent offense, the district attorney shall decide whether to seek classification of the offender as a sexually violent predator if the person is convicted. If the district attorney intends to seek the classification of a sexually violent predator, the district attorney shall within the time provided for the filing of pretrial motions under G.S. 15A-952 file a notice of the district attorney's intent. The court may for good cause shown allow late filing of the notice, grant additional time to the parties to prepare for trial, or make other appropriate orders.

(b) Prior to sentencing a person as a sexually violent predator, the court shall order a presentence investigation in accordance with G.S. 15A-1332(c). However, the study of the defendant and whether the defendant is a sexually violent predator shall be conducted by a board of experts selected by the Department of Correction. The board of experts shall be composed of at least two people who are experts in the field of the behavior and treatment of sexual offenders, one of whom is selected from a panel of experts in those fields provided by the North Carolina Medical Society and not employed with the Department of Correction or employed on a full-time basis with any other State agency.

(c) When the defendant is returned from the presentence commitment, the court shall hold a sentencing hearing in accordance with G.S. 15A-1334. At the sentencing hearing, the court shall, after taking the presentencing report under advisement, make written findings as to whether the defendant is classified as a sexually violent predator and the basis for the court's findings.

"§ 14-208.21. Registration procedure for sexually violent predator; application of Part 2 of this Article.

The provisions of Part 2 of this Article apply to a person classified as a sexually violent predator unless provided otherwise by this Part. The procedure for registering as a sexually violent predator is the same as under Part 2 of this Article.

"§ 14-208.22. Additional registration information required.

(a) In addition to the information required by G.S. 14-208.7, the following information shall also be obtained in the same manner as set out in Part 2 of this Article from a person who is classified as a sexually violent predator:

- (1) Identifying factors.
- (2) Offense history.
- (3) Documentation of any treatment received by the person for the person's mental abnormality or personality disorder.

(b) The Division shall provide each sheriff with forms for registering persons as required by this Article.

(c) The Department of Correction shall also obtain the additional information set out in subsection (a) of this section and shall include this

information in the prerelease notice forwarded to the sheriff or other appropriate law enforcement agency.

"§ 14-208.23. Length of registration.

The requirement that a person who is classified as a sexually violent predator maintain registration shall terminate only upon a determination, made in accordance with this Part, that the person no longer suffers from a mental abnormality or personality disorder that would make the person likely to engage in a predatory sexually violent offense. :

"§ 14-208.24. Verification of registration information.

(a) The information in the county registry shall be verified by the sheriff for each registrant who is classified as a sexually violent predator every 90 days after the person's initial registration date.

(b) The procedure for verifying the information in the criminal offender registry is the same as under G.S. 14-208.9A, except that verification shall be every 90 days as provided by subsection (a) of this section.

"§ 14-208.25. Termination of registration requirement.

Ten years from the date of a person's initial registration as a sexually violent predator, a person may petition the superior court to review the person's classification as a sexually violent predator if the person has committed no subsequent reportable convictions. The decision as to whether to grant the review is in the discretion of the court. If the court grants the review, the court shall order a presentence commitment study as provided in G.S. 14-208.20(b). Upon receipt of the study results, the court shall hold a hearing to determine whether the person's classification as a sexually violent predator should be terminated. The procedure for the hearing shall be the same as under G.S. 15A-1334(b) and (c). The court shall make written findings of fact with regard to the court's decision and the basis for that decision.

"Part 4. Registration of Certain Juveniles Adjudicated
for Committing Certain Offenses.

"§ 14-208.26. Registration of certain juveniles adjudicated delinquent for committing certain offenses.

(a) When a juvenile is adjudicated delinquent for committing a violation of G.S. 14-27.2 (first degree rape), G.S. 14-27.3 (second degree rape), G.S. 14-27.4 (first degree sexual offense), G.S. 14-27.5 (second degree sexual offense), or G.S. 14-27.6 (attempted rape or sexual offense), and the juvenile was at least eleven years of age at the time of the commission of the offense, the court shall consider whether the juvenile is a danger to the community. If the court finds that the juvenile is a danger to the community, then the court shall consider whether the juvenile should be required to register with the county sheriff in accordance with this Part. The determination as to whether the juvenile is a danger to the community and whether the juvenile shall be ordered to register shall be made by the presiding judge at the dispositional hearing. If the judge rules that the juvenile is a danger to the community and that the juvenile shall register, then an order shall be entered requiring the juvenile to register. The court's findings regarding whether the juvenile is a danger to the community and whether the juvenile shall register shall be entered into the court record.

No juvenile may be required to register under this Part unless the court first finds that the juvenile is a danger to the community.

A juvenile ordered to register under this Part shall register and maintain that registration as provided by this Part.

(b) If the court finds that the juvenile is a danger to the community and must register, the presiding judge shall conduct the notification procedures specified in G.S. 14-208.8. The chief court counselor of that district shall file the registration information for the juvenile with the appropriate sheriff.

"§ 14-208.27. Change of address.

If a juvenile who is adjudicated delinquent and required to register changes address, the court counselor for the juvenile shall provide written notice of the new address not later than the tenth day after the change to the sheriff of the county with whom the juvenile had last registered. Upon receipt of the notice, the sheriff shall immediately forward this information to the Division. If the juvenile moves to another county in this State, the Division shall inform the sheriff of the new county of the juvenile's new residence.

"§ 14-208.28. Verification of registration information.

The information provided to the sheriff shall be verified annually for each juvenile registrant as follows:

- (1) Every year on the anniversary of a juvenile's initial registration date, the sheriff shall mail a verification form to the court counselor assigned to the juvenile.
- (2) The court counselor for the juvenile shall return the verification form to the sheriff within 10 days after the receipt of the form.
- (3) The verification form shall be signed by the court counselor and the juvenile and shall indicate whether the juvenile still resides at the address last reported to the sheriff. If the juvenile has a different address, then that fact and the new address shall be indicated on the form.

"§ 14-208.29. Registration information is not public record; access to registration information available only to law enforcement agencies.

(a) Notwithstanding any other provision of law, the information regarding a juvenile required to register under this Part is not public record and is not available for public inspection.

(b) The registration information of a juvenile adjudicated delinquent and required to register under this Part shall be maintained separately by the sheriff and released only to law enforcement agencies. Under no circumstances shall the registration of a juvenile adjudicated delinquent be included in the county or statewide registries, or be made available to the public via internet.

"§ 14-208.30. Termination of registration requirement.

The requirement that a juvenile adjudicated delinquent register under this Part automatically terminates on the juvenile's eighteenth birthday or when the jurisdiction of the juvenile court with regard to the juvenile ends, whichever occurs first.

"§ 14-308.31. File with Police Information Network.

(a) The Division shall include the registration information in the Police Information Network as set forth in G.S. 114-10.1.

(b) The Division shall maintain the registration information permanently even after the registrant's reporting requirement expires; however, the records shall remain confidential in accordance with G.S. 7A-675.

"§ 14-208.32. Application of Part.

This Part does not apply to a juvenile who is tried and convicted as an adult for committing or attempting to commit a sexually violent offense or an offense against a minor. A juvenile who is convicted of one of those offenses as an adult is subject to the registration requirements of Part 2 and Part 3 of this Article."

Section 1A. G.S. 7A-647 reads as rewritten:

"§ 7A-647. Dispositional alternatives for delinquent, undisciplined, abused, neglected, or dependent juvenile.

The following alternatives for disposition shall be available to any judge exercising jurisdiction, and the judge may combine any of the applicable alternatives when he finds such disposition to be in the best interest of the juvenile:

- (1) The judge may dismiss the case, or continue the case in order to allow the juvenile, parent, or others to take appropriate action.
- (2) In the case of any juvenile who needs more adequate care or supervision or who needs placement, the judge may:
 - a. Require that he be supervised in his own home by the Department of Social Services in his county, a court counselor or other personnel as may be available to the court, subject to conditions applicable to the parent or the juvenile as the judge may specify; or
 - b. Place him in the custody of a parent, relative, private agency offering placement services, or some other suitable person; or
 - c. Place him in the custody of the Department of Social Services in the county of his residence, or in the case of a juvenile who has legal residence outside the State, in the physical custody of the Department of Social Services in the county where he is found so that agency may return the juvenile to the responsible authorities in his home state. The Director may, unless otherwise ordered by the judge, arrange for, provide, or consent to, needed routine or emergency medical or surgical care or treatment. In the case where the parent is unknown, unavailable or unable to act on behalf of their child or children, the Director may, unless otherwise ordered by the judge, arrange for, provide or consent to any psychiatric, psychological, educational, or other remedial evaluations or treatment for the juvenile placed by a judge or his designee in the custody or physical custody of a county Department of Social Services under the authority of this or any other Chapter of the General Statutes. Prior to exercising this authority, the Director shall make reasonable efforts to obtain consent from a parent or guardian of the affected child. If the Director can not obtain such consent, the Director shall promptly notify the parent or guardian that care or treatment has been provided and shall give him frequent status reports on the circumstances

of the child. Upon request of a parent or guardian of the affected child, the results or records of the aforementioned evaluations, findings or treatment shall be made available to such parent or guardian by the Director unless prohibited by G.S. 122C-53(d).

- (3) In any case, the judge may order that the juvenile be examined by a physician, psychiatrist, psychologist or other qualified expert as may be needed for the judge to determine the needs of the juvenile.
 - a. Upon completion of the examination, the judge shall conduct a hearing to determine whether the juvenile is in need of medical, surgical, psychiatric, psychological, or other treatment and who should pay the cost of the treatment. The county manager, or such person who shall be designated by the chairman of the county commissioners, of the juvenile's residence shall be notified of the hearing, and allowed to be heard. If the judge finds the juvenile to be in need of medical, surgical, psychiatric, psychological or other treatment, the judge shall permit the parent or other responsible persons to arrange for treatment. If the parent declines or is unable to make necessary arrangements, the judge may order the needed treatment, surgery or care, and the judge may order the parent to pay the cost of the care pursuant to G.S. 7A-650. If the judge finds the parent is unable to pay the cost of treatment, the judge shall order the county to arrange for treatment of the juvenile and to pay for the cost of the treatment. The county department of social services shall recommend the facility that will provide the juvenile with treatment.
 - b. If the judge believes, or if there is evidence presented to the effect that the juvenile is mentally ill or is developmentally disabled, the judge shall refer the juvenile to the area mental health, developmental disabilities, and substance abuse services director for appropriate action. A juvenile shall not be committed directly to a State hospital or mental retardation center; and orders purporting to commit a juvenile directly to a State hospital or mental retardation center except for an examination to determine capacity to proceed shall be void and of no effect. The area mental health, developmental disabilities, and substance abuse director shall be responsible for arranging an interdisciplinary evaluation of the juvenile and mobilizing resources to meet the juvenile's needs. If institutionalization is determined to be the best service for the juvenile, admission shall be with the voluntary consent of the parent or guardian. If the parent, guardian, or custodian refuses to consent to a mental hospital or retardation center admission after such institutionalization is recommended by the area mental health, developmental disabilities, and substance abuse director, the signature and consent of the judge may be substituted for that purpose. In all cases in which a regional mental hospital

refuses admission to a juvenile referred for admission by a judge and an area mental health, developmental disabilities, and substance abuse director or discharges a juvenile previously admitted on court referral prior to completion of his treatment, the hospital shall submit to the judge a written report setting out the reasons for denial of admission or discharge and setting out the juvenile's diagnosis, indications of mental illness, indications of need for treatment, and a statement as to the location of any facility known to have a treatment program for the juvenile in question.

- (4) In any case in which a juvenile, who was at least eleven years of age at the time of the offense, is adjudicated delinquent for committing a violation of G.S. 14-27.2 (first degree rape), G.S. 14-27.3 (second degree rape), 14-27.4 (first degree sexual offense), 14-27.5 (second degree sexual offense), or G.S. 14-27.6 (attempted rape or sexual offense), the judge, upon a finding that the juvenile is a danger to the community, may order that the juvenile register in accordance with Part 4 of Article 27A of Chapter 14 of the General Statutes."

Section 1B. The Secretary of the Department of Crime Control and Public Safety shall appoint a committee to study whether a juvenile adjudicated delinquent for committing a sexually violent offense or an offense against a minor as those terms are defined by G.S. 14-208.6 should be required to register under Article 27A of Chapter 14 of the General Statutes. In its study the committee shall consider whether if a juvenile is required to register what the procedures, requirements, termination of requirements, accessibility of registration records by law enforcement officials and by the general public, should be and shall also consider any other relevant issues.

The committee shall consist of 12 members appointed by the Secretary as follows:

- (1) Six members from a list of nominations provided by the Speaker of the House of Representatives.
- (2) Six members from a list of nominations provided by the President Pro Tempore of the Senate.

The study shall be conducted within the available funds of the Department of Crime Control and Public Safety.

The committee shall report its findings and recommendations to the 1997 General Assembly, 1998 Regular Session, upon its convening, or to the 1999 General Assembly, upon its convening.

Section 2. The Department of Justice shall use funds available within its current operations budget for the 1997-98 fiscal year to design and implement a program for electronic access to the statewide sex offender registry. The program shall provide on-line access to the statewide sex offender registry through the Internet, allowing members of the public to locate and access the public record of sex offender registration information. The Division of Criminal Statistics shall be responsible for the on-line maintenance of current information regarding each registered sex offender.

Section 3. Sections 1, 1B, 2, and 3 of this act become effective April 1, 1998, except that Part 4 of Article 27A of Chapter 14 of the General Statutes becomes effective October 1, 1999. Section 1A of this act becomes effective October 1, 1999.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law upon approval of the Governor at 10:35 a.m. on the 17th day of September, 1997.

S.B. 1055

CHAPTER 517

**AN ACT ESTABLISHING THE PUBLIC HOSPITAL PERSONNEL ACT
AND AMENDING THE LAW GOVERNING DISPOSAL OF FETAL
REMAINS.**

The General Assembly of North Carolina enacts:

Section 1. This act shall be known as the "Public Hospital Personnel Act of 1997".

Section 2. Chapter 131E of the General Statutes is amended by adding the following new Article to read:

"ARTICLE 15A.

"Public Hospital Personnel Act.

"§ 131E-257. Title; purpose; applicability of other laws; 'public hospital' defined.

(a) This Article shall be known and may be cited as the 'Public Hospital Personnel Act'.

(b) The purpose of this Article is to protect the privacy of the personnel records of public hospital employees and to authorize public hospitals to determine employee compensation and personnel policies and to establish employee benefit plans.

(c) Unless otherwise provided, none of the provisions of Part 4, Article 5, Chapter 153A and Part 4, Article 7, Chapter 160A shall apply to public hospitals.

(d) If any provision of this Article is inconsistent with any provision of any other law, the provision of this Article shall be controlling.

(e) As used in this Article, unless the context clearly indicates otherwise, the term 'public hospital' has the same meaning as in G.S. 159-39.

"§ 131E-257.1. Compensation; personnel policies; employee benefits plans.

(a) A public hospital shall determine the pay, expense allowances, and other compensation of its officers and employees, and may establish position classification and pay plans and incentive compensation plans.

(b) A public hospital may:

(1) Adopt personnel policies and procedures regarding, without limitation, vacations, personal leave, service award programs, other personnel policies and procedures, and any other measures that enhance the ability of a public hospital to hire and retain employees.

(2) Determine the work hours, workdays, and holidays applicable to its employees.

- (3) Establish and pay all or part of the cost of benefit plans for its employees and former employees, including without limitation, life, health and disability plans, pension, profit sharing, deferred compensation and other retirement plans, and other fringe benefit plans.
- (4) Pay severance payments and provide other employee severance benefits to its employees and former employees pursuant to a severance plan established in connection with a reduction in the size of the workforce of a public hospital or, with respect to an individual employee, pursuant to an employment agreement entered into prior to the date the employee receives notice of termination of employment.

(c) The provisions of G.S. 159-30 and G.S. 159-31 are not applicable to public hospitals with respect to the investment of escrowed or trustee retirement and deferred compensation funds. Public hospitals may invest such escrowed and trustee funds in property or securities in which trustees, guardians, personal representatives, and others acting in a fiduciary capacity may legally invest funds under their control.

"§ 131E-257.2. Privacy of employee personnel records.

(a) Notwithstanding the provisions of G.S. 132-6 or any other general law or local act concerning access to public records, personnel files of employees and applicants for employment maintained by a public hospital are subject to inspection and may be disclosed only as provided by this section. For purposes of this section, an employee's personnel file consists of any information in any form gathered by the public hospital with respect to an employee and, by way of illustration but not limitation, relating to the employee's application, selection or nonselection, performance, promotions, demotions, transfers, suspensions and other disciplinary actions, evaluation forms, leave, salary, and termination of employment. As used in this section, 'employee' includes both current and former employees of a public hospital.

(b) The following information with respect to each public hospital employee is a matter of public record:

- (1) Name.
- (2) Age.
- (3) Date of original employment.
- (4) Current position title, current salary, and the date and amount of the most recent increase or decrease in salary.
- (5) Date of the most recent promotion, demotion, transfer, suspension, separation or other change in position classification.
- (6) The office to which the employee is currently assigned.

In addition, the following information with respect to each licensed medical provider employed by or having privileges to practice in a public hospital shall be a matter of public record: educational history and qualifications, date and jurisdiction of original and current licensure; and information relating to medical board certifications or other qualifications of medical specialists.

The governing board of a public hospital shall determine in what form and by whom this information will be maintained. Any person may have

access to this information for the purpose of inspection, examination, and copying, during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the governing board of the public hospital may have adopted. Any person denied access to this information may apply to the appropriate division of the General Court of Justice for an order compelling disclosure, and the court shall have jurisdiction to issue such orders.

(c) All information contained in a public hospital employee's personnel file, other than the information made public by subsection (b) of this section, is confidential and shall be open to inspection only in the following instances:

- (1) The employee or the employee's duly authorized agent may examine all portions of the employee's personnel file, except letters of reference solicited prior to employment.
- (2) A licensed physician designated in writing by the employee may examine the employee's medical record.
- (3) A public hospital employee having supervisory authority over the employee may examine all material in the employee's personnel file.
- (4) By order of a court of competent jurisdiction, any person may examine such portion of an employee's personnel file as may be ordered by the court.
- (5) An official of an agency of the State or federal government, or any political subdivision of the State, may inspect any portion of a personnel file when the inspection is deemed by the person having custody of the file to be necessary and essential to the pursuance of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in criminal prosecution of the employee, or for the purpose of assisting in an investigation of the employee's tax liability. However, the official having custody of the records may release the name, address, and telephone number from a personnel file for the purpose of assisting in a criminal investigation.
- (6) An employee may sign a written release, to be placed with the employee's personnel file, that permits the person with custody of the file to provide, either in person, by telephone, or by mail, information specified in the release to prospective employers, educational institutions, or other persons specified in the release.

(d) Even if considered part of an employee's personnel file, the following information need not be disclosed to an employee nor to any other person:

- (1) Testing or examination material used solely to determine individual qualifications for appointment, employment, or promotion in the public hospital's service, when disclosure would compromise the objectivity or the fairness of the testing or examination process.
- (2) Investigative reports or memoranda and other information concerning the investigation of possible criminal actions of an employee, until the investigation is completed and no criminal action taken, or until the criminal action is concluded.

(3) Information that might identify an undercover law enforcement officer or a law enforcement informer.

(4) Notes, preliminary drafts, and internal communications concerning an employee. In the event such materials are used for any official personnel decision, then the employee or his duly authorized agent shall have a right to inspect such materials.

(c) The governing board of a public hospital may permit access, subject to limitations they may impose, to selected personnel files by a professional representative of a training, research, or academic institution if that representative certifies that he or she will not release information identifying the employees whose files are opened and that the information will be used solely for statistical, research, or teaching purposes. This certification shall be retained by the public hospital as long as each personnel file so examined is retained.

(f) The governing board of a public hospital that maintains personnel files containing information other than the information mentioned in subsection (b) of this section shall establish procedures whereby an employee who objects to material in his or her file on grounds that it is inaccurate or misleading may seek to have the material removed from the file or may place in the file a statement relating to the material.

(g) A public hospital director, trustee, officer, or employee who knowingly, willfully, and with malice permits any person to have access to information contained in a personnel file, except as is permitted by this section, is guilty of a Class 3 misdemeanor; however, conviction under this subsection shall be punishable only by a fine not to exceed five hundred dollars (\$500.00).

(h) Any person not specifically authorized by this section to have access to a personnel file designated as confidential, who shall knowingly and willfully examine in its official filing place, or remove, or copy any portion of a confidential personnel file shall be guilty of a Class 3 misdemeanor; however, conviction under this subsection shall be punishable, in the discretion of the court, by a fine not to exceed five hundred dollars (\$500.00)."

Section 3. G.S. 131E-97.1(b) is repealed.

Section 4. G.S. 130A-131.10 reads as rewritten:

"§ 130A-131.10. *Manner of disposition of remains of terminated pregnancies.*

(a) The Commission for Health Services shall adopt rules to ensure that all facilities authorized to terminate pregnancies, and all medical or research laboratories or facilities to which the remains of terminated pregnancies are sent by facilities authorized to terminate pregnancies, shall dispose of the remains in a manner limited to burial, cremation, or or, except as prohibited by subsection (b) of this section, approved hospital type of incineration. Rules adopted pursuant to this section shall provide that the obligation to dispose of the remains of terminated pregnancies by a facility authorized to terminate pregnancies ceases as to any remains of terminated pregnancies that the facility has sent to a medical or research laboratory or facility.

(b) A hospital or other medical facility or a medical or research laboratory or facility shall dispose of the remains of a recognizable fetus

only by burial or cremation. The Commission shall adopt rules to implement this subsection.

(c) A hospital or other medical facility is relieved from the obligation to dispose of the remains in accordance with subsections (a) and (b) of this section if it sends the remains to a medical or research laboratory or facility.

(d) This section does not impose liability on a permitted medical waste treatment facility for a hospital's or other medical facility's violation of this section nor does it impose any additional duty on the treatment facility to inspect waste received from the hospital or medical facility to determine compliance with this section."

Section 5. Section 4 of this act becomes effective October 1, 1997. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law upon approval of the Governor at 10:37 a.m. on the 17th day of September, 1997.

H.B. 1140

CHAPTER 518**AN ACT TO PROVIDE THAT COMMUNITY SERVICE BE IMPOSED FOR A CONVICTION OF LITTERING.**

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-399 reads as rewritten:

"§ 14-399. Littering.

(a) No person, including but not limited to, any firm, organization, private corporation, or governing body, agents or employees of any municipal corporation shall intentionally or recklessly throw, scatter, spill or place or intentionally or recklessly cause to be blown, scattered, spilled, thrown or placed or otherwise dispose of any litter upon any public property or private property not owned by him within this State or in the waters of this State including, but not limited to, any public highway, public park, lake, river, ocean, beach, campground, forest land, recreational area, trailer park, highway, road, street or alley except:

(1) When such property is designated by the State or political subdivision thereof for the disposal of garbage and refuse, and such person is authorized to use such property for such purpose; or

(2) Into a litter receptacle in such a manner that the litter will be prevented from being carried away or deposited by the elements upon any part of such private or public property or waters.

(b) When litter is blown, scattered, spilled, thrown or placed from a vehicle or watercraft, the operator thereof shall be presumed to have committed such offense. This presumption, however, does not apply to a vehicle transporting agricultural products or supplies when the litter from that vehicle is a nontoxic, biodegradable agricultural product or supply.

(c) Any person who violates this section in an amount not exceeding 15 pounds and not for commercial purposes is guilty of a Class 3 misdemeanor punishable by a fine of not less than one hundred dollars (\$100.00) nor

more than five hundred dollars (\$500.00) for the first offense. In addition, the court may require the violator to perform community service of not less than eight hours nor more than 24 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed. Any second or subsequent offense within three years after the date of a prior offense is punishable by a fine of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000). In addition, the court may require the violator to perform community service of not less than 16 hours nor more than 50 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed.

(d) Any person who violates this section in an amount exceeding 15 pounds but not exceeding 500 pounds and not for commercial purposes is guilty of a Class 3 misdemeanor punishable by a fine of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000). In addition, the court shall require the violator to perform community service of not less than 24 hours nor more than 100 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other community service commensurate with the offense committed.

(e) Any person who violates this section in an amount exceeding 500 pounds or in any quantity for commercial purposes, or who discards litter that is a hazardous waste as defined in G.S. 130A-290 is guilty of a Class I felony. In addition, the court may order the violator to:

- (1) Remove, or render harmless, the litter that he discarded in violation of this section;
- (2) Repair or restore property damaged by, or pay damages for any damage arising out of, his discarding litter in violation of this section; or
- (3) Perform community public service relating to the removal of litter discarded in violation of this section or to the restoration of an area polluted by litter discarded in violation of this section.

(f) A court may enjoin a violation of this section.

(f1) If a violation of this section involves the operation of a motor vehicle, upon a finding of guilt, the court shall forward a record of the finding to the Department of Transportation, Division of Motor Vehicles, which shall record a penalty of one point on the violator's drivers license pursuant to the point system established by G.S. 20-16. There shall be no insurance premium surcharge or assessment of points under the classification plan adopted pursuant to G.S. 58-30.4 for a finding of guilt under this section.

(g) A motor vehicle, vessel, aircraft, container, crane, winch, or machine involved in the disposal of more than 500 pounds of litter in violation of this section is declared contraband and is subject to seizure and summary forfeiture to the State.

(h) If a person sustains damages arising out of a violation of this section that is punishable as a felony, a court, in a civil action for such damages, shall order the person to pay the injured party threefold the actual damages or two hundred dollars (\$200.00), whichever amount is greater. In

addition, the court shall order the person to pay the injured party's court costs and attorney's fees.

(i) For the purpose of the section, unless the context requires otherwise:

- (1) 'Aircraft' means a motor vehicle or other vehicle that is used or designed to fly, but does not include a parachute or any other device used primarily as safety equipment.
- (2) 'Commercial vehicle' means a vehicle that is owned or used by a business, corporation, association, partnership, or sole proprietorship or any other entity conducting business for economic gain.
- (3) 'Law enforcement officer' means any officer of the North Carolina Highway Patrol, the State Bureau of Investigation, the Division of Motor Vehicles of the Department of Transportation, a county sheriff's department, a municipal law enforcement department, a law enforcement department of any other political subdivision, the Department, or the North Carolina Wildlife Resources Commission. In addition, and solely for the purposes of this section, 'law enforcement officer' means any employee of a county or municipality designated by the county or municipality as a litter enforcement officer; or wildlife protectors as defined in G.S. 113-128(9);
- (4) 'Litter' means any garbage, rubbish, trash, refuse, can, bottle, box, container, wrapper, paper, paper product, tire, appliance, mechanical equipment or part, building or construction material, tool, machinery, wood, motor vehicle or motor vehicle part, vessel, aircraft, farm machinery or equipment, sludge from a waste treatment facility, water supply treatment plant, or air pollution control facility, dead animal, or discarded material in any form resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations. 'Litter' does not include political pamphlets, handbills, religious tracts, newspapers, and other such printed materials the unsolicited distribution of which is protected by the Constitution of the United States or the Constitution of North Carolina.
- (5) 'Vehicle' has the same meaning as in G.S. 20-4.01(49); and
- (6) 'Watercraft' means any boat or vessel used for transportation across the water.

(j) It shall be the duty of all law enforcement officers to enforce the provisions of this section.

(k) This section does not limit the authority of any State or local agency to enforce other laws, rules or ordinances relating to litter or solid waste management.

Section 2. This act becomes effective December 1, 1997, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law upon approval of the Governor at 10:38 a.m. on the 17th day of September, 1997.

S.B. 932

CHAPTER 519

AN ACT TO AMEND THE LAWS GOVERNING HEALTH BENEFIT PLAN REPORTING AND DISCLOSURE REQUIREMENTS; TO MAKE IMPROVEMENTS IN THE OPERATIONS OF HEALTH MAINTENANCE ORGANIZATIONS IN NORTH CAROLINA; TO ESTABLISH STANDARDS FOR COVERAGE AND PROVIDER NETWORKS UNDER HEALTH INSURANCE POLICIES AND MANAGED CARE PLANS; TO REWRITE AND MODERNIZE THE LAWS ON INSURERS OFFERING PREFERRED PROVIDER BENEFIT PLANS, PREFERRED PROVIDER ORGANIZATIONS, AND PREFERRED PROVIDER BENEFIT PLANS WITH RESPECT TO COVERAGE DETERMINATIONS, MEDICAL NECESSITY, NONDISCRIMINATION AGAINST HIGH-RISK POPULATIONS, SERVICES OUTSIDE PROVIDER NETWORKS WHEN PARTICIPATING PROVIDERS ARE NOT REASONABLY AVAILABLE, AND CONTINUING CARE RETIREMENT COMMUNITY RESIDENTS; TO AMEND THE LAWS TO PROVIDE PARITY BETWEEN HEALTH MAINTENANCE ORGANIZATION POINT-OF-SERVICE PRODUCTS AND PREFERRED PROVIDER BENEFIT PLANS WITH RESPECT TO REIMBURSEMENT DIFFERENTIALS FOR COVERAGE OF HEALTH CARE PROVIDED BY NONPARTICIPATING PROVIDERS; AND TO ESTABLISH PROCEDURES AND RIGHTS FOR MANAGED CARE PLAN MEMBERS IN UTILIZATION REVIEW DECISIONS AND GRIEVANCES AGAINST MANAGED CARE ORGANIZATIONS.

Whereas, managed care is increasingly being used to deliver health care services to citizens of this State; and

Whereas, managed care's use of provider networks, precertification, utilization review, and similar features makes it critical that the State regulate the use of managed care to ensure quality, availability, and accessibility of health care services to enrollees and participants; Now, therefore,

The General Assembly of North Carolina enacts:

PART I. HEALTH PLAN REPORTING AND DISCLOSURE

Section 1.1. G.S. 58-3-190, as enacted by Senate Bill 973 of the 1997 Session, is recodified as G.S. 58-3-191 and reads as rewritten:

"§ 58-3-190. 58-3-191. Managed care reporting and disclosure requirements.

(a) Each health benefit plan shall annually, on or before the first day of March of each year, file in the office of the Commissioner the following information, ~~to the extent applicable:~~ information for the previous calendar year:

- (1) The number of and reasons for ~~complaints~~ grievances received from plan participants regarding medical ~~treatment;~~ treatment. The report shall include the number of covered lives, total number of grievances categorized by reason for the grievance, the number of

grievances referred to the second level grievance review, the number of grievances resolved at each level and their resolution, and a description of the actions that are being taken to correct the problems that have been identified through grievances received. Every health benefit plan shall file with the Commissioner, as part of its annual grievance report, a certificate of compliance stating that the carrier has established and follows, for each of its lines of business, grievance procedures that comply with G.S. 58-50-62.

- (2) The number of participants and groups who terminated coverage under the plan for any reason; reason. The report shall include the number of participants who terminated coverage because the group contract under which they were covered was terminated, the number of participants who terminated coverage for reasons other than the termination of the group under which they were enrolled, and the number of group contracts terminated.
- (3) The number of provider contracts that were terminated in the preceding year and the reasons for termination. This information shall include the number of providers leaving the plan and the number of new providers; providers. The report shall show voluntary and involuntary terminations separately.
- (4) Utilization data that includes statistics Data relating to the utilization, quality, availability, and accessibility of services, as defined by the Commissioner; and services. The report shall include the following:
 - a. Information on the health benefit plan's program to determine the level of network availability, as measured by the numbers and types of network providers, required to provide covered services to covered persons. This information shall include the plan's methodology for:
 1. Establishing performance targets for the numbers and types of providers by specialty, area of practice, or facility type, for each of the following categories: primary care physicians, specialty care physicians, nonphysician health care providers, hospitals, and nonhospital health care facilities.
 2. Determining when changes in plan membership will necessitate changes in the provider network.

The report shall also include: the availability performance targets for the previous and current years; the numbers and types of providers currently participating in the health benefit plan's provider network; and an evaluation of actual plan performance against performance targets.

- b. The health benefit plan's method for arranging or providing health care services from nonnetwork providers, both within and outside of its service area, when network providers are not available to provide covered services.
- c. Information on the health benefit plan's program to determine the level of provider network accessibility necessary to serve its membership. This information shall include the health benefit

plan's methodology for establishing performance targets for member access to covered services from primary care physicians, specialty care physicians, nonphysician health care providers, hospitals, and nonhospital health care facilities. The methodology shall establish targets for:

1. The proximity of network providers to members, as measured by member driving distance, to access primary care, specialty care, hospital-based services, and services of nonhospital facilities.
2. Expected waiting time for appointments for urgent care, acute care, specialty care, and routine services for prevention and wellness.

The report shall also include: the accessibility performance targets for the previous and current years; data on actual overall accessibility as measured by driving distance and average appointment waiting time; and an evaluation of actual plan performance against performance targets. Measures of actual accessibility may be developed using scientifically valid random sample techniques.

- d. A statement of the health benefit plan's methods and standards for determining whether in-network services are reasonably available and accessible to a covered person, for the purpose of determining whether a covered person should receive the in-network level of coverage for services received from a nonnetwork provider.
 - e. A description of the health benefit plan's program to monitor the adequacy of its network availability and accessibility methodologies and performance targets, plan performance, and network provider performance.
 - f. A summary of the health benefit plan's utilization review program activities for the previous calendar year. The report shall include the number of: each type of utilization review performed, noncertifications for each type of review, each type of review appealed, and appeals settled in favor of covered persons. The report shall be accompanied by a certification from the carrier that it has established and follows procedures that comply with G.S. 58-50-61.
- (5) Aggregate financial compensation data, including the percentage of providers paid under a capitation arrangement, discounted fee-for-service or salary, the services included in the capitation payment, and the range of compensation paid by withhold or incentive payments. This information shall be submitted on a form prescribed by the Commissioner.

The name, or group or institutional name, of an individual provider may not be disclosed pursuant to this subsection. No civil liability shall arise from compliance with the provisions of this subsection, provided that the acts or omissions are made in good faith and do not constitute gross negligence, willful or wanton misconduct, or intentional wrongdoing.

(b) Disclosure requirements. -- Each health benefit plan shall provide the following applicable information to plan participants and bona fide prospective participants upon request:

- (1) The evidence of coverage (G.S. 58-67-50), subscriber contract (G.S. 58-65-60, 58-65-140), health insurance policy (G.S. 58-51-80, 58-50-125, 58-50-55), or the contract and benefit summary of any other type of health benefit plan;
- (2) An explanation of the utilization review criteria and treatment protocol under which treatments are provided for conditions specified by the prospective participant. This explanation shall be in writing if so requested;
- (3) If denied a recommended treatment, written reasons for the denial and an explanation of the utilization review criteria or treatment protocol upon which the denial was based;
- (4) The plan's restrictive formularies or prior approval requirements for obtaining prescription drugs, whether a particular drug or therapeutic class of drugs is excluded from its formulary, and the circumstances under which a nonformulary drug may be covered; and
- (5) The plan's procedures and medically based criteria for determining whether a specified procedure, test, or treatment is experimental.

(b1) Effective March 1, 1998, insurers shall make the reports that are required under subsection (a) of this section and that have been filed with the Commissioner available on their business premises and shall provide any insured access to them upon request.

(c) For purposes of this section, 'health benefit plan' or 'plan' means (i) health maintenance organization (HMO) subscriber contracts and (ii) insurance company or hospital and medical service corporation preferred provider benefit plans in which utilization review or quality management programs are used to manage the provision of covered health care services, and enrollees are given incentives through benefit differentials to limit the receipt of covered health care services to those provided by participating providers."

Section 1.2. Article 67 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-67-11. Additional HMO application information.

(a) In addition to the information filed under G.S. 58-67-10(c), each application shall include a description of the following:

- (1) The program to be used to evaluate whether the applicant's provider network is sufficient, in numbers and types of providers, to assure that all health care services will be accessible without unreasonable delay.
- (2) The program to be used for verifying provider credentials.
- (3) The quality management program to assure quality of care and health care services managed and provided through the health care plan.
- (4) The utilization review program for the review and control of health care services provided or paid for.

- (5) The applicant's provider network and evidence of the ability of that network to provide all health care services to the applicant's prospective enrollees.

(b) G.S. 58-67-10(d) applies to the information specified in this section."

Section 1.3. G.S. 58-67-50(e) reads as rewritten:

"(c) Effective on January 1, 1989, every health maintenance organization shall provide at least minimum cost and utilization information for group contracts of 100 or more subscribers on an annual basis when requested by the group. Such information shall be compiled in accordance with the Data Collection Form developed by the Standardized HMO Data Form Task Force as endorsed by the Washington Business Group on Health and the Group Health Association of America on November 19, 1986, and any subsequent amendments. In addition, beginning with data for the calendar year 1998, every HMO, for group contracts of 1,000 or more members, shall provide cost, use of service, prevention, outcomes, and other group-specific data as collected in accordance with the latest edition of the Health Plan Employer Data and Information Set (HEDIS) guidelines, as published by the National Committee for Quality Assurance. Beginning with data for the calendar year 1998, every HMO shall file with the Commissioner and make available to all employer groups, not later than July 1 of the following calendar year, a report of health benefit plan-wide experience on its costs, use of services, and other aspects of performance, in the HEDIS format."

Section 1.4. G.S. 58-67-100 reads as rewritten:

"§ 58-67-100. Examinations.

(a) The Commissioner may make an examination of the affairs of any health maintenance organization and the contracts, agreements or other arrangements pursuant to its health care plan as often as he the Commissioner deems it necessary for the protection of the interests of the people of this State but not less frequently than once every three years. Examinations shall otherwise be conducted under G.S. 58-2-131, 58-2-132, and 58-2-133.

(b) Every health maintenance organization shall submit its books and records relating to the health care plan to such examinations and in every way facilitate them. For the purpose of examinations, the Commissioner may administer oaths to, and examine the officers and agents of the health maintenance organization concerning their business.

(c) Repealed by Session Laws 1995, c. 360, s. 2(m).

(d) In lieu of such Instead of conducting an examination, the Commissioner may accept the report of an examination made by the Commissioner of Insurance or Commissioner of Public Health HMO regulator of another state."

Section 1.5. G.S. 58-67-140 reads as rewritten:

"§ 58-67-140. Suspension or revocation of certificate of authority license.

(a) The Commissioner may suspend or revoke any certificate of authority issued to a health maintenance organization under this Article if he finds that any of the following conditions exist: suspend, revoke, or refuse to renew an HMO license if the Commissioner finds that the HMO:

- (1) The health maintenance organization is Is operating significantly in contravention of its basic organizational document, or in a manner

contrary to that described in and reasonably inferred from any other information submitted under G.S. 58-67-10, unless amendments to such submissions have been filed with and approved by the Commissioner.

- (2) ~~The health maintenance organization issues evidence~~ Issues evidences of coverage or uses a schedule of premiums for health care services which that do not comply with the requirements of G.S. 58-67-50.
- (3) ~~The health maintenance organization no~~ No longer maintains the financial reserve specified in G.S. 58-67-40 or is no longer financially responsible and may reasonably be expected to be unable to meet its obligations to enrollees or prospective enrollees.
- (4) ~~The health maintenance organization, or any person on its behalf,~~ has Has itself or through any person on its behalf advertised or merchandised its services in an untrue, misrepresentative, misleading, deceptive or unfair manner.
- (5) ~~The continued operation of the health maintenance organization Is~~ operating in a manner that would be hazardous to its enrollees.
- (6) ~~The health maintenance organization has otherwise failed to substantially comply with this Article. Knowingly or repeatedly~~ fails or refuses to comply with any law or rule applicable to the HMO or with any order issued by the Commissioner after notice and opportunity for a hearing.
- (7) Has knowingly published or made to the Department or to the public any false statement or report, including any report or any data that serves as the basis for any report, required to be submitted under G.S. 58-3-210.

(b) A ~~certificate of authority~~ license shall be suspended or revoked only after compliance with ~~the requirements of G.S. 58-67-155.~~

(c) When ~~the certificate of authority of a health maintenance organization~~ an HMO license is suspended, the health maintenance organization HMO shall not, during the ~~period of such suspension,~~ enroll any additional enrollees except newborn children or other newly acquired dependents of existing enrollees, and shall not engage in any advertising or solicitation whatsoever, solicitation.

(d) When ~~the certificate of authority of a health maintenance organization~~ an HMO license is revoked, such organization the HMO shall proceed, immediately following the effective date of the order of revocation, to wind up its affairs, and shall conduct no further business except as may be essential to the orderly conclusion of the affairs of ~~such organization, the HMO. It The HMO~~ shall engage in no advertising or solicitation whatsoever, solicitation. The Commissioner may, by written order, permit such further operation of the ~~organization as he HMO as the Commissioner~~ may find to be in the best interest of enrollees, to the end that enrollees will be afforded the greatest practical opportunity to obtain continuing health care coverage."

PART II. PROVIDER NETWORKS AND COVERAGE STANDARDS

Section 2.1. Article 3 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-3-200. Miscellaneous insurance and managed care coverage and network provisions.

(a) Definitions. -- As used in this section:

- (1) 'Health benefit plan' means any of the following if written by an insurer: an accident and health insurance policy or certificate; a nonprofit hospital or medical service corporation contract; a health maintenance organization subscriber contract; or a plan provided by a multiple employer welfare arrangement. 'Health benefit plan' does not mean any plan implemented or administered through the Department of Human Resources or its representatives. 'Health benefit plan' also does not mean any of the following kinds of insurance:
 - a. Accident.
 - b. Credit.
 - c. Disability income.
 - d. Long-term or nursing home care.
 - e. Medicare supplement.
 - f. Specified disease.
 - g. Dental or vision.
 - h. Coverage issued as a supplement to liability insurance.
 - i. Workers' compensation.
 - j. Medical payments under automobile or homeowners insurance.
 - k. Hospital income or indemnity.
 - l. Insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability policy or equivalent self-insurance.

- (2) 'Insurer' means an entity that writes a health benefit plan and that is an insurance company subject to this Chapter, a service corporation under Article 65 of this Chapter, a health maintenance organization under Article 67 of this Chapter, or a multiple employer welfare arrangement under Article 49 of this Chapter.

(b) Medical Necessity. -- An insurer that limits its health benefit plan coverage to medically necessary services and supplies shall define 'medically necessary services or supplies' in its health benefit plan as those covered services or supplies that are:

- (1) Provided for the diagnosis, treatment, cure, or relief of a health condition, illness, injury, or disease; and not for experimental, investigational, or cosmetic purposes.
- (2) Necessary for and appropriate to the diagnosis, treatment, cure, or relief of a health condition, illness, injury, disease, or its symptoms.
- (3) Within generally accepted standards of medical care in the community.
- (4) Not solely for the convenience of the insured, the insured's family, or the provider.

For medically necessary services, nothing in this subsection precludes an insurer from comparing the cost-effectiveness of alternative services or supplies when determining which of the services or supplies will be covered.

(c) Coverage Determinations. -- If an insurer or its authorized representative determines that services, supplies, or other items are covered under its health benefit plan, including any determination under G.S. 58-50-61, the insurer shall not subsequently retract its determination after the services, supplies, or other items have been provided, or reduce payments for a service, supply, or other item furnished in reliance on such a determination, unless the determination was based on a material misrepresentation about the insured's health condition that was knowingly made by the insured or the provider of the service, supply, or other item.

(d) Services Outside Provider Networks. -- No insurer shall penalize an insured or subject an insured to the out-of-network benefit levels offered under the insured's approved health benefit plan unless contracting health care providers able to meet health needs of the insured are reasonably available to the insured without unreasonable delay.

(e) Nondiscrimination Against High-Risk Populations. -- No insurer shall establish provider selection or contract renewal standards or procedures that are designed to avoid or otherwise have the effect of avoiding enrolling high-risk populations by excluding providers because they are located in geographic areas that contain high-risk populations or because they treat or specialize in treating populations that present a risk of higher-than-average claims or health care services utilization. This subsection does not prohibit an insurer from declining to select a provider or from not renewing a contract with a provider who fails to meet the insurer's selection criteria.

(f) Continuing Care Retirement Community Residents. -- As used in this subsection, 'Medicare benefits' means medical and health products, benefits, and services used in accordance with Title XVIII of the Social Security Act. If an insured with coverage for Medicare benefits or similar benefits under a plan for retired federal government employees is a resident of a continuing care retirement community regulated under Article 64 of this Chapter, and the insured's primary care physician determines that it is medically necessary for the insured to be referred to a skilled nursing facility upon discharge from an acute care facility, the insurer shall not require that the insured relocate to a skilled nursing facility outside the continuing care retirement community if the continuing care retirement community:

- (1) Is a Medicare-certified skilled nursing facility.
- (2) Agrees to be reimbursed at the insurer's contract rate negotiated with similar providers for the same services and supplies.
- (3) Agrees not to bill the insured for fees over and above the insurer's contract rate.
- (4) Meets all guidelines established by the insurer related to quality of care, including:
 - a. Quality assurance programs that promote continuous quality improvement.
 - b. Standards for performance measurement for measuring and reporting the quality of health care services provided to insureds.

- c. Utilization review, including compliance with utilization management procedures.
- d. Confidentiality of medical information.
- e. Insured grievances and appeals from adverse treatment decisions.
- f. Nondiscrimination.
- (5) Agrees to comply with the insurer's procedures for referral authorization, risk assumption, use of insurer services, and other criteria applicable to providers under contract for the same services and supplies.

A continuing care retirement community that satisfies subdivisions (1) through (5) of this subsection shall not be obligated to accept, as a skilled nursing facility, any patient other than a resident of the continuing care retirement community, and neither the insurer nor the retirement community shall be allowed to list or otherwise advertise the skilled nursing facility as a participating network provider for Medicare benefits for anyone other than residents of the continuing care retirement community."

PART III. PREFERRED PROVIDER AMENDMENTS

Section 3.1. Article 50 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-50-56. Insurers, preferred provider organizations, and preferred provider benefit plans.

(a) Definitions. -- As used in this section:

- (1) 'Insurer' means an insurer or service corporation subject to this Chapter.
- (2) 'Preferred provider' means a health care provider who has agreed to accept special reimbursement or other terms for health care services from an insurer for health care services on a fee-for-service basis. A 'preferred provider' is not a health care provider participating in any prepaid health service or capitation arrangement implemented or administered by the Department of Human Resources or its representatives.
- (3) 'Preferred provider benefit plan' means a health benefit plan offered by an insurer in which both of the following features are present:
 - a. Utilization review or quality management programs are used to manage the provision of covered health care services; and
 - b. Enrollees are given incentives through benefit differentials to limit the receipt of covered health care services to those furnished by participating providers, and health care services are provided by preferred providers under a contract pursuant to this section.
- (4) 'Preferred provider organization' or 'PPO' means an insurer holding contracts with preferred providers to be used by or offered to insurers offering preferred provider benefit plans.

(b) Insurers may enter into preferred provider contracts or enter into other cost containment arrangements approved by the Commissioner to

reduce the costs of providing health care services. These contracts or arrangements may be entered into with licensed health care providers of all kinds without regard to specialty of services or limitation to a specific type of practice.

(c) At the initial offering of a preferred provider plan to the public, health care providers may submit proposals for participation in accordance with the terms of the preferred provider plan within 30 days after that offering. After that time period, any health care provider may submit a proposal, and the insurer offering the preferred provider benefit plan shall consider all pending applications for participation and give reasons for any rejections or failure to act on an application on at least an annual basis. Any health care provider seeking to participate in the preferred provider benefit plan, whether upon the initial offering or subsequently, may be permitted to do so in the discretion of the insurer offering the preferred provider benefit plan. The second and third paragraphs of G.S. 58-50-30(a) apply to preferred provider benefit plans.

(d) Any provision of a contract between an insurer offering a preferred provider benefit plan and a health care provider that restricts the provider's right to enter into preferred provider contracts with other persons is prohibited, is void ab initio, and is not enforceable. The existence of that restriction does not invalidate any other provision of the contract.

(e) Except where specifically prohibited either by this section or by rules adopted by the Commissioner, the contractual terms and conditions for special reimbursements shall be those that the parties find mutually agreeable.

(f) Every insurer offering a preferred provider benefit plan and contracting with a PPO shall require by contract that the PPO shall provide all of the preferred providers with whom it holds contracts information about the insurer and the insurer's preferred provider benefit plans. This information shall include for each insurer and preferred provider benefit plan the benefit designs and incentives that are used to encourage insureds to use preferred providers.

(g) The Commissioner may adopt rules applicable to insurers offering preferred provider benefit plans under this section. These rules shall provide for:

- (1) Accessibility of preferred provider services to individuals within the insured group.
- (2) The adequacy of the number and locations of health care providers.
- (3) The availability of services at reasonable times.
- (4) Financial solvency.

(h) Each insurer offering a preferred provider benefit plan shall provide the Commissioner with summary data about the financial reimbursements offered to health care providers. All such insurers shall disclose annually the following information:

- (1) The name by which the preferred provider benefit plan is known and its business address.

- (2) The name, address, and nature of any PPO or other separate organization that administers the preferred provider benefit plan for the insurer.
- (3) The terms of the agreements entered into by the insurer with preferred providers.
- (4) Any other information necessary to determine compliance with this section, rules adopted under this section, or other requirements applicable to preferred provider benefit plans.

(i) A person enrolled in a preferred provider benefit plan may obtain covered health care services from a provider who does not participate in the plan. In accordance with rules adopted by the Commissioner and subject to G.S. 58-3-200(d), the preferred provider benefit plan may limit coverage for health care services obtained from a nonparticipating provider. The Commissioner shall adopt rules on product limitations, including payment differentials for services rendered by nonparticipating providers. These rules shall be similar in substance to rules governing HMO point-of-service products.

(j) A list of the current participating providers in the geographic area in which a substantial portion of health care services will be available shall be provided to insureds and contracting parties.

(k) Publications or advertisements of preferred provider benefit plans or organizations shall not refer to the quality or efficiency of the services of nonparticipating providers."

Section 3.2. Article 63 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-63-70. Health care service discount practices by insurers and service corporations.

(a) It is an unfair trade practice for any insurer or service corporation subject to this Chapter to make an intentional misrepresentation to a health care provider to the effect that the insurer or service corporation is entitled to a certain preferred provider or other discount off the fees charged for medical services, procedures, or supplies provided by the health care provider, when the insurer or service corporation is not entitled to any discount or is entitled to a lesser discount from the provider on those fees.

(b) It is an unfair trade practice for any person with knowledge that an insurer or service corporation intends to make the type of misrepresentation prohibited in subsection (a) of this section to provide substantial assistance to that insurer or service corporation in accomplishing that misrepresentation."

Section 3.3. G.S. 58-51-57(a) reads as rewritten:

"(a) Every policy or contract of accident or health insurance, and every preferred provider contract, policy, or plan as defined and regulated under G.S. 58-50-50 and G.S. 58-50-55, benefit plan under G.S. 58-50-56, that is issued, renewed, or amended on or after January 1, 1992, shall provide coverage for pap smears and for low-dose screening mammography. The same deductibles, coinsurance, and other limitations as apply to similar services covered under the policy, contract, or plan shall apply to coverage for pap smears and low-dose screening mammography."

Section 3.4. G.S. 58-51-58(a) reads as rewritten:

"(a) Every policy or contract of accident and health insurance, and every preferred provider ~~contract, policy, or plan as defined and regulated under G.S. 58-50-50 and G.S. 58-50-55,~~ benefit plan under G.S. 58-50-56, that is issued, renewed, or amended on or after January 1, 1994, shall provide coverage for prostate-specific antigen (PSA) tests or equivalent tests for the presence of prostate cancer. The same deductibles, coinsurance, and other limitations as apply to similar services covered under the policy, contract, or plan shall apply to coverage for prostate-specific antigen (PSA) tests or equivalent tests for the presence of prostate cancer."

Section 3.5. G.S. 58-51-59(a) reads as rewritten:

"(a) No policy or contract of accident or health insurance, and no preferred provider ~~contract, policy, or plan as defined and regulated under G.S. 58-50-50 and G.S. 58-50-55,~~ benefit plan under G.S. 58-50-56, that is issued, renewed, or amended on or after January 1, 1994, and that provides coverage for prescribed drugs approved by the federal Food and Drug Administration for the treatment of certain types of cancer shall exclude coverage of any drug on the basis that the drug has been prescribed for the treatment of a type of cancer for which the drug has not been approved by the federal Food and Drug Administration. The drug, however, must be approved by the federal Food and Drug Administration and must have been proven effective and accepted for the treatment of the specific type of cancer for which the drug has been prescribed in any one of the following established reference compendia:

- (1) The American Medical Association Drug Evaluations;
- (2) The American Hospital Formulary Service Drug Information; or
- (3) The United States Pharmacopeia Drug Information."

Section 3.6. G.S. 58-65-92(a) reads as rewritten:

"(a) Every insurance certificate or subscriber contract under any hospital service plan or medical service plan governed by this Article and Article 66 of this Chapter, and every preferred provider ~~contract, policy, or plan as defined and regulated under G.S. 58-50-50 and G.S. 58-50-55,~~ benefit plan under G.S. 58-50-56, that is issued, renewed, or amended on or after January 1, 1992, shall provide coverage for pap smears and for low-dose screening mammography. The same deductibles, coinsurance, and other limitations as apply to similar services covered under the certificate or contract shall apply to coverage for pap smears and low-dose screening mammography."

Section 3.7. G.S. 58-65-93(a) reads as rewritten:

"(a) Every insurance certificate or subscriber contract under any hospital service plan or medical service plan governed by this Article and Article 66 of this Chapter, and every preferred provider ~~contract, policy, or plan as defined and regulated under G.S. 58-50-50 and G.S. 58-50-55,~~ benefit plan under G.S. 58-50-56, that is issued, renewed, or amended on or after January 1, 1994, shall provide coverage for prostate-specific antigen (PSA) tests or equivalent tests for the presence of prostate cancer. The same deductibles, coinsurance, and other limitations as apply to similar services covered under the certificate or contract shall apply to coverage for prostate-specific antigen (PSA) tests or equivalent tests for the presence of prostate cancer."

Section 3.8. G.S. 58-65-94(a) reads as rewritten:

"(a) No insurance certificate or subscriber contract under any hospital service plan or medical service plan governed by this Article and Article 66 of this Chapter, and no preferred provider ~~contract, policy, or plan as defined and regulated under G.S. 58-50-50 and G.S. 58-50-55,~~ benefit plan under G.S. 58-50-56, that is issued, renewed, or amended on or after January 1, 1994, and that provides coverage for prescribed drugs approved by the federal Food and Drug Administration for the treatment of certain types of cancer shall exclude coverage of any drug on the basis that the drug has been prescribed for the treatment of a type of cancer for which the drug has not been approved by the federal Food and Drug Administration. The drug, however, must be approved by the federal Food and Drug Administration and must have been proven effective and accepted for the treatment of the specific type of cancer for which the drug has been prescribed in any one of the following established reference compendia:

- (1) The American Medical Association Drug Evaluations;
- (2) The American Hospital Formulary Service Drug Information; or
- (3) The United States Pharmacopeia Drug Information."

Section 3.9. G.S. 58-51-61(a), as enacted by S.L. 1997-312, reads as rewritten:

"(a) Every policy or contract of accident and health insurance, and every preferred provider ~~contract, policy, or plan as defined and regulated under G.S. 58-50-50 and G.S. 58-50-55,~~ benefit plan under G.S. 58-50-60 that is issued, renewed, or amended on or after January 1, 1998, and that provides coverage for mastectomy shall provide coverage for reconstructive breast surgery resulting from a mastectomy. The coverage shall include coverage for all stages and revisions of reconstructive breast surgery performed on a nondiseased breast to establish symmetry when reconstructive surgery on a diseased breast is performed. The same deductibles, coinsurance, and other limitations as apply to similar services covered under the policy, contract, or plan shall apply to coverage for reconstructive breast surgery. Reconstruction of the nipple/areolar complex following a mastectomy is covered without regard to the lapse of time between the mastectomy and the reconstruction, subject to the approval of the treating physician."

Section 3.10. G.S. 58-65-96(a), as enacted by S.L. 1997-312, reads as rewritten:

"(a) Every insurance certificate or subscriber contract under any hospital service plan or medical service plan governed by this Article and Article 66 of this Chapter, and every preferred provider ~~contract, policy, or plan as defined and regulated under G.S. 58-50-50 and G.S. 58-50-55,~~ benefit plan under G.S. 58-50-56 that is issued, renewed, or amended on or after January 1, 1998, that provides coverage for mastectomy shall provide coverage for reconstructive breast surgery resulting from a mastectomy. The coverage shall include coverage for all stages and revisions of reconstructive breast surgery performed on a nondiseased breast to establish symmetry when reconstructive surgery on a diseased breast is performed. The same deductibles, coinsurance, and other limitations as apply to similar services covered under the policy, contract, or plan shall apply to coverage for reconstructive breast surgery. Reconstruction of the nipple/areolar

complex following a mastectomy is covered without regard to the lapse of time between the mastectomy and the reconstruction, subject to the approval of the treating physician."

Section 3.11. G.S. 58-51-61(a), as enacted by S.L. 1997-225, reads as rewritten:

"(a) Every policy or contract of accident or health insurance, and every preferred provider ~~contract, policy, or plan as defined and regulated under G.S. 58-50-50 and G.S. 58-50-55,~~ benefit plan under G.S. 58-50-56 that is issued, renewed, or amended on or after October 1, 1997, shall provide coverage for medically appropriate and necessary services, including diabetes outpatient self-management training and educational services, and equipment, supplies, medications, and laboratory procedures used to treat diabetes. Diabetes outpatient self-management training and educational services shall be provided by a physician or a health care professional designated by the physician. The insurer shall determine who shall provide and be reimbursed for the diabetes outpatient self-management training and educational services. The same deductibles, coinsurance, and other limitations as apply to similar services covered under the policy, contract, or plan shall apply to the diabetes coverage required under this section."

Section 3.12. G.S. 58-65-91(a), as enacted by S.L. 1997-225, reads as rewritten:

"(a) Every insurance certificate or subscriber contract under any hospital service plan or medical service plan governed by this Article and Article 66 of this Chapter, and every preferred provider ~~contract, policy, or plan as defined and regulated under G.S. 58-50-50 and G.S. 58-50-55,~~ plan under G.S. 58-50-56 that is issued, renewed, or amended on or after October 1, 1997, shall provide coverage for medically appropriate and necessary services, including diabetes outpatient self-management training and educational services, and equipment, supplies, medications, and laboratory procedures used to treat diabetes. Diabetes outpatient self-management training and educational services shall be provided by a physician or a health care professional designated by the physician. The hospital or medical service plan shall determine who shall provide and be reimbursed for the diabetes outpatient self-management training and educational services. The same deductibles, coinsurance, and other limitations as apply to similar services covered under the policy, contract, or plan shall apply to the diabetes coverage required under this section."

Section 3.13. If Senate Bill 843 becomes law, G.S. 58-50-65(a), as amended by Section 59 of Senate Bill 843, reads as rewritten:

"(a) Except as provided in this subsection, nothing in Articles 50 through 55 of this Chapter applies to any liability or workers' compensation insurance policy. ~~Except for G.S. 58-50-55(a), the~~ The provisions of this Article and Articles 65 and 67 of this Chapter and any administrative rules adopted under those Articles relating to preferred providers and utilization review apply to workers' compensation insurance policies and to individual and group self-funded workers' compensation insurance plans. If there is any conflict between managed care rules adopted by the Commissioner under this Chapter and managed care rules adopted by the Industrial Commission under G.S. 97-25.2, the Industrial Commission's rules govern.

If there is any conflict between managed care provisions in this Chapter and in Chapter 97 of the General Statutes with respect to workers' compensation, the provisions in Chapter 97 govern."

Section 3.14. G.S. 90-14.13 reads as rewritten:

"§ 90-14.13. *Reports of disciplinary action by health care institutions; immunity from liability.*

The chief administrative officer of every licensed hospital or other health care institution, including Health Maintenance Organizations, as defined in G.S. 58-67-5, preferred providers, as defined in G.S. 58-50-50, G.S. 58-50-56, and all other provider organizations that issue credentials to physicians who practice medicine in the State, shall, after consultation with the chief of staff of such institution, report to the Board any revocation, suspension, or limitation of a physician's privileges to practice in that institution. Each such institution shall also report to the Board resignations from practice in that institution by persons licensed under this Article. The Board shall report all violations of this subsection known to it to the licensing agency for the institution involved.

Any licensed physician who does not possess professional liability insurance shall report to the Board any award of damages or any settlement of any malpractice complaint affecting his or her practice within 30 days of the award or settlement.

The chief administrative officer of each insurance company providing professional liability insurance for physicians who practice medicine in North Carolina, the administrative officer of the Liability Insurance Trust Fund Council created by G.S. 116-220, and the administrative officer of any trust fund operated by a hospital authority, group, or provider shall report to the Board within 30 days:

- (1) Any award of damages or settlement affecting or involving a physician it insures, or
- (2) Any cancellation or nonrenewal of its professional liability coverage of a physician, if the cancellation or nonrenewal was for cause.

The Board may request details about any action and the officers shall promptly furnish the requested information. The reports required by this section are privileged and shall not be open to the public. The Board shall report all violations of this paragraph to the Commissioner of Insurance.

Any person making a report required by this section shall be immune from any criminal prosecution or civil liability resulting therefrom unless such person knew the report was false or acted in reckless disregard of whether the report was false."

Section 3.15. G.S. 135-39.5(12) reads as rewritten:

"(12) Determining basis of payments to health care providers, including payments in accordance with G.S. 58-50-55, G.S. 58-50-56."

Section 3.16. G.S. 58-65-140 is repealed.

Section 3.17. G.S. 58-50-50 and G.S. 58-50-55 are repealed.

Section 3.18. G.S. 58-67-35(a)(6) reads as rewritten:

"(6) The offering and contracting for the provision or arranging of, in addition to health care services, of:

- a. Additional health care services;
- b. Indemnity benefits, covering out-of-area or emergency services;
- c. Indemnity benefits, in addition to those relating to out-of-area and emergency services, provided through insurers or hospital or medical service corporations; and
- d. Point-of-service products, for which the Commissioner shall adopt rules governing:
 1. The percentage of an HMO's total health care expenditures for out-of-plan covered services for all of its members that may be spent on those services, which may not exceed twenty percent (20%);
 2. Product limitations; limitations, which may provide for payment differentials for services rendered by providers who are not in an HMO network, subject to G.S. 58-3-200(d).
 3. Deposit and other financial requirements; and
 4. Other requirements for marketing and administering those products."

Section 3.19. Except as modified by G.S. 58-50-56(i), as enacted in this Part, any administrative rules that were adopted by the Commissioner under the authority of G.S. 58-50-50 or G.S. 58-50-55 and that were effective before January 1, 1998, are not affected by the repeals in Section 3.17 of this act.

PART IV. UTILIZATION REVIEW AND GRIEVANCES

Section 4.1. Article 50 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-50-61. *Utilization review.*

(a) Definitions. -- As used in this section and in G.S. 58-50-62, the term:

- (1) 'Clinical peer' means a health care professional who holds an unrestricted license in a state of the United States, in the same or similar specialty, and routinely provides the health care services subject to utilization review.
- (2) 'Clinical review criteria' means the written screening procedures, decision abstracts, clinical protocols, and practice guidelines used by an insurer to determine medically necessary services and supplies.
- (3) 'Covered person' means a policyholder, subscriber, enrollee, or other individual covered by a health benefit plan. 'Covered person' includes another person, other than the covered person's provider, who is authorized to act on behalf of a covered person.
- (4) 'Emergency medical condition' means a medical condition manifesting itself by acute symptoms of sufficient severity including, but not limited to, severe pain, or by acute symptoms developing from a chronic medical condition that would lead a prudent layperson, possessing an average knowledge of health

and medicine, to reasonably expect the absence of immediate medical attention to result in any of the following:

- a. Placing the health of an individual, or with respect to a pregnant woman, the health of the woman or her unborn child, in serious jeopardy.
 - b. Serious impairment to bodily functions.
 - c. Serious dysfunction of any bodily organ or part.
- (5) 'Emergency services' means health care items and services furnished or required to screen for or treat an emergency medical condition until the condition is stabilized, including prehospital care and ancillary services routinely available to the emergency department.
- (6) 'Grievance' means a written complaint submitted by a covered person about any of the following:
- a. An insurer's decisions, policies, or actions related to availability, delivery, or quality of health care services.
 - b. Claims payment or handling; or reimbursement for services.
 - c. The contractual relationship between a covered person and an insurer.
 - d. The outcome of an appeal of a noncertification under this section.
- (7) 'Health benefit plan' means any of the following if offered by an insurer: an accident and health insurance policy or certificate; a nonprofit hospital or medical service corporation contract; a health maintenance organization subscriber contract; or a plan provided by a multiple employer welfare arrangement. 'Health benefit plan' does not mean any plan implemented or administered through the Department of Human Resources or its representatives. 'Health benefit plan' also does not mean any of the following kinds of insurance:
- a. Accident.
 - b. Credit.
 - c. Disability income.
 - d. Long-term or nursing home care.
 - e. Medicare supplement.
 - f. Specified disease.
 - g. Dental or vision.
 - h. Coverage issued as a supplement to liability insurance.
 - i. Workers' compensation.
 - j. Medical payments under automobile or homeowners.
 - k. Hospital income or indemnity.
 - l. Insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability policy or equivalent self-insurance.
- (8) 'Health care provider' means any person who is licensed, registered, or certified under Chapter 90 of the General Statutes; a health care facility as defined in G.S. 131E-176(9b); or a pharmacy.

- (9) 'Health care services' means services provided for the diagnosis, prevention, treatment, cure, or relief of a health condition, illness, injury, or disease.
- (10) 'Insurer' means an entity that writes a health benefit plan and that is an insurance company subject to this Chapter, a service corporation under Article 65 of this Chapter, a health maintenance organization under Article 67 of this Chapter, or a multiple employer welfare arrangement under Article 49 of this Chapter.
- (11) 'Managed care plan' means a health benefit plan in which an insurer either (i) requires a covered person to use or (ii) creates incentives, including financial incentives, for a covered person to use providers that are under contract with or managed, owned, or employed by the insurer.
- (12) 'Medically necessary services or supplies' means those covered services or supplies that are:
- a. Provided for the diagnosis, treatment, cure, or relief of a health condition, illness, injury, or disease.
 - b. Not for experimental, investigational, or cosmetic purposes.
 - c. Necessary for and appropriate to the diagnosis, treatment, cure, or relief of a health condition, illness, injury, disease, or its symptoms.
 - d. Within generally accepted standards of medical care in the community.
 - e. Not solely for the convenience of the insured, the insured's family, or the provider.
- For medically necessary services, nothing in this subdivision precludes an insurer from comparing the cost-effectiveness of alternative services or supplies when determining which of the services or supplies will be covered.
- (13) 'Noncertification' means a determination by an insurer or its designated utilization review organization that an admission, availability of care, continued stay, or other health care service has been reviewed and, based upon the information provided, does not meet the insurer's requirements for medical necessity, appropriateness, health care setting, level of care or effectiveness, and the requested service is therefore denied, reduced, or terminated. A 'noncertification' is not a decision rendered solely on the basis that the health benefit plan does not provide benefits for the health care service in question, if the exclusion of the specific service requested is clearly stated in the certificate of coverage.
- (14) 'Participating provider' means a provider who, under a contract with an insurer or with an insurer's contractor or subcontractor, has agreed to provide health care services to covered persons in return for direct or indirect payment from the insurer, other than coinsurance, copayments, or deductibles.
- (15) 'Provider' means a health care provider.

- (16) 'Stabilize' means to provide medical care that is appropriate to prevent a material deterioration of the person's condition, within reasonable medical probability, in accordance with the HCFA (Health Care Financing Administration) interpretative guidelines, policies, and regulations pertaining to responsibilities of hospitals in emergency cases (as provided under the Emergency Medical Treatment and Labor Act, section 1867 of the Social Security Act, 42 U.S.C.S. § 1395dd), including medically necessary services and supplies to maintain stabilization until the person is transferred.
- (17) 'Utilization review' means a set of formal techniques designed to monitor the use of or evaluate the clinical necessity, appropriateness, efficacy or efficiency of health care services, procedures, providers, or facilities. These techniques may include:
- a. Ambulatory review. -- Utilization review of services performed or provided in an outpatient setting.
 - b. Case management. -- A coordinated set of activities conducted for individual patient management of serious, complicated, protracted, or other health conditions.
 - c. Certification. -- A determination by an insurer or its designated URO that an admission, availability of care, continued stay, or other service has been reviewed and, based on the information provided, satisfies the insurer's requirements for medically necessary services and supplies, appropriateness, health care setting, level of care, and effectiveness.
 - d. Concurrent review. -- Utilization review conducted during a patient's hospital stay or course of treatment.
 - e. Discharge planning. -- The formal process for determining, before discharge from a provider facility, the coordination and management of the care that a patient receives after discharge from a provider facility.
 - f. Prospective review. -- Utilization review conducted before an admission or a course of treatment including any required preauthorization or precertification.
 - g. Retrospective review. -- Utilization review of medically necessary services and supplies that is conducted after services have been provided to a patient, but not the review of a claim that is limited to an evaluation of reimbursement levels, veracity of documentation, accuracy of coding, or adjudication for payment.
 - h. Second opinion. -- An opportunity or requirement to obtain a clinical evaluation by a provider other than the provider originally making a recommendation for a proposed service to assess the clinical necessity and appropriateness of the proposed service.
- (18) 'Utilization review organization' or 'URO' means an entity that conducts utilization review under a managed care plan, but does

not mean an insurer performing utilization review for its own health benefit plan.

(b) Insurer Oversight. -- Every insurer shall monitor all utilization review carried out by or on behalf of the insurer and ensure compliance with this section. An insurer shall ensure that appropriate personnel have operational responsibility for the conduct of the insurer's utilization review program. If an insurer contracts to have a URO perform its utilization review, the insurer shall monitor the URO to ensure compliance with this section, which shall include:

- (1) A written description of the URO's activities and responsibilities, including reporting requirements.
- (2) Evidence of formal approval of the utilization review organization program by the insurer.
- (3) A process by which the insurer evaluates the performance of the URO.

(c) Scope and Content of Program. -- Every insurer shall prepare and maintain a utilization review program document that describes all delegated and nondelegated review functions for covered services including:

- (1) Procedures to evaluate the clinical necessity, appropriateness, efficacy, or efficiency of health services.
- (2) Data sources and clinical review criteria used in decision making.
- (3) The process for conducting appeals of noncertifications.
- (4) Mechanisms to ensure consistent application of review criteria and compatible decisions.
- (5) Data collection processes and analytical methods used in assessing utilization of health care services.
- (6) Provisions for assuring confidentiality of clinical and patient information in accordance with State and federal law.
- (7) The organizational structure (e.g., utilization review committee, quality assurance, or other committee) that periodically assesses utilization review activities and reports to the insurer's governing body.
- (8) The staff position functionally responsible for day-to-day program management.
- (9) The methods of collection and assessment of data about underutilization and overutilization of health care services and how the assessment is used to evaluate and improve procedures and criteria for utilization review.

(d) Program Operations. -- In every utilization review program, an insurer or URO shall use documented clinical review criteria that are based on sound clinical evidence and that are periodically evaluated to assure ongoing efficacy. An insurer may develop its own clinical review criteria or purchase or license clinical review criteria. Qualified health care professionals shall administer the utilization review program and oversee review decisions under the direction of a medical doctor. A medical doctor shall evaluate the clinical appropriateness of noncertifications. Compensation to persons involved in utilization review shall not contain any direct or indirect incentives for them to make any particular review decisions. Compensation to utilization reviewers shall not be directly or indirectly based

on the number or type of noncertifications they render. In issuing a utilization review decision, an insurer shall: obtain all information required to make the decision, including pertinent clinical information; employ a process to ensure that utilization reviewers apply clinical review criteria consistently; and issue the decision in a timely manner pursuant to this section.

(e) Insurer Responsibilities. -- Every insurer shall:

- (1) Routinely assess the effectiveness and efficiency of its utilization review program.
- (2) Coordinate the utilization review program with its other medical management activity, including quality assurance, credentialing, provider contracting, data reporting, grievance procedures, processes for assessing satisfaction of covered persons, and risk management.
- (3) Provide covered persons and their providers with access to its review staff by a toll-free or collect call telephone number whenever any provider is required to be available to provide services which may require prior certification to any plan enrollee. Every insurer shall establish standards for telephone accessibility and monitor telephone service as indicated by average speed of answer and call abandonment rate, on at least a month-by-month basis, to ensure that telephone service is adequate, and take corrective action when necessary.
- (4) Limit its requests for information to only that information that is necessary to certify the admission, procedure or treatment, length of stay, and frequency and duration of health care services.
- (5) Have written procedures for making utilization review decisions and for notifying covered persons of those decisions.
- (6) Have written procedures to address the failure or inability of a provider or covered person to provide all necessary information for review. If a provider or covered person fails to release necessary information in a timely manner, the insurer may deny certification.

(f) Prospective and Concurrent Reviews. -- As used in this subsection, 'necessary information' includes the results of any patient examination, clinical evaluation, or second opinion that may be required. Prospective and concurrent determinations shall be communicated to the covered person's provider within three business days after the insurer obtains all necessary information about the admission, procedure, or health care service. If an insurer certifies a health care service, the insurer shall notify the covered person's provider. For a noncertification, the insurer shall notify the covered person's provider and send written or electronic confirmation of the noncertification to the covered person. In concurrent reviews, the insurer shall remain liable for health care services until the covered person has been notified of the noncertification.

(g) Retrospective Reviews. -- As used in this subsection, 'necessary information' includes the results of any patient examination, clinical evaluation, or second opinion that may be required. For retrospective review determinations, an insurer shall make the determination within 30 days after

receiving all necessary information. For a certification, the insurer may give written notification to the covered person's provider. For a noncertification, the insurer shall give written notification to the covered person and the covered person's provider within five business days after making the noncertification.

(h) Notice of Noncertification. -- A written notification of a noncertification shall include all reasons for the noncertification, including the clinical rationale, the instructions for initiating a voluntary appeal or reconsideration of the noncertification, and the instructions for requesting a written statement of the clinical review criteria used to make the noncertification. An insurer shall provide the clinical review criteria used to make the noncertification to any person who received the notification of the noncertification and who follows the procedures for a request.

(i) Requests for Reconsideration. -- An insurer may establish procedures for informal reconsideration of noncertifications. The reconsideration shall be conducted between the covered person's provider and a medical doctor designated by the insurer. An insurer shall not require a covered person to participate in an informal reconsideration before the covered person may appeal a noncertification under subsection (j) of this section.

(j) Appeals of Noncertifications. -- Every insurer shall have written procedures for appeals of noncertifications by covered persons or their providers acting on their behalves, including expedited review to address a situation where the time frames for the standard review procedures set forth in this section would reasonably appear to seriously jeopardize the life or health of a covered person or jeopardize the covered person's ability to regain maximum function. Each appeal shall be evaluated by a medical doctor who was not involved in the noncertification.

(k) Nonexpedited Appeals. -- Within three business days after receiving a request for a standard, nonexpedited appeal, the insurer shall provide the covered person with the name, address, and telephone number of the coordinator and information on how to submit written material. For standard, nonexpedited appeals, the insurer shall give written notification of the decision to the covered person and the covered person's provider within 30 days after the insurer receives the request for an appeal. The written decision shall contain:

- (1) The professional qualifications and licensure of the person or persons reviewing the appeal.
- (2) A statement of the reviewers' understanding of the reason for the covered person's appeal.
- (3) The reviewers' decision in clear terms and the medical rationale in sufficient detail for the covered person to respond further to the insurer's position.
- (4) A reference to the evidence or documentation that is the basis for the decision, including the clinical review criteria used to make the determination, and instructions for requesting the clinical review criteria.
- (5) A statement advising the covered person of the covered person's right to request a second-level grievance review and a description

of the procedure for submitting a second-level grievance under G.S. 58-50-62.

(l) Expedited Appeals. -- An expedited appeal of a noncertification may be requested by a covered person or his or her provider acting on the covered person's behalf only when a nonexpedited appeal would reasonably appear to seriously jeopardize the life or health of a covered person or jeopardize the covered person's ability to regain maximum function. The insurer may require documentation of the medical justification for the expedited appeal. The insurer shall, in consultation with a medical doctor, provide expedited review, and the insurer shall communicate its decision in writing to the covered person and his or her provider as soon as possible, but not later than four days after receiving the information justifying expedited review. The written decision shall contain the provisions specified in subsection (k) of this section. If the expedited review is a concurrent review determination, the insurer shall remain liable for the coverage of health care services until the covered person has been notified of the determination. An insurer is not required to provide an expedited review for retrospective noncertifications.

(m) Disclosure Requirements. -- In the certificate of coverage and member handbook provided to covered persons, an insurer shall include a clear and comprehensive description of its utilization review procedures, including the procedures for appealing noncertifications and a statement of the rights and responsibilities of covered persons, including the voluntary nature of the appeal process, with respect to those procedures. An insurer shall include a summary of its utilization review procedures in materials intended for prospective covered persons. An insurer shall print on its membership cards a toll-free telephone number to call for utilization review purposes.

(n) Maintenance of Records. -- Every insurer and URO shall maintain records of each review performed and each appeal received or reviewed, as well as documentation sufficient to demonstrate compliance with this section. The maintenance of these records, including electronic reproduction and storage, shall be governed by rules adopted by the Commissioner that apply to insurers. These records shall be retained by the insurer and URO for a period of three years or until the Commissioner has adopted a final report of a general examination that contains a review of these records for that calendar year, whichever is later.

(o) Violation. -- A violation of this section subjects an insurer to G.S. 58-2-70."

Section 4.2. Article 50 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-50-62. Insurer grievance procedures.

(a) Purpose and Intent. -- The purpose of this section is to provide standards for the establishment and maintenance of procedures by insurers to assure that covered persons have the opportunity for appropriate resolutions of their grievances.

(b) Availability of Grievance Process. -- Every insurer shall have a grievance process whereby a covered person may voluntarily request a review of any decision, policy, or action of the insurer that affects that

covered person. The grievance process may provide for an immediate informal consideration by the insurer of a grievance. If the insurer does not have a procedure for informal consideration or if an informal consideration does not resolve the grievance, the grievance process shall provide for first- and second-level reviews of grievances; except that an appeal of a noncertification that has been reviewed under G.S. 58-50-61 shall be reviewed as a second-level grievance under this section.

(c) Grievance Procedures. -- Every insurer shall have written procedures for receiving and resolving grievances from covered persons. A description of the grievance procedures shall be set forth in or attached to the certificate of coverage and member handbook provided to covered persons. The description shall include a statement informing the covered person that the grievance procedures are voluntary and shall also inform the covered person about the availability of the Commissioner's office for assistance, including the telephone number and address of the office.

(d) Maintenance of Records. -- Every insurer shall maintain records of each grievance received and the insurer's review of each grievance, as well as documentation sufficient to demonstrate compliance with this section. The maintenance of these records, including electronic reproduction and storage, shall be governed by rules adopted by the Commissioner that apply to insurers. The insurer shall retain these records for three years or until the Commissioner has adopted a final report of a general examination that contains a review of these records for that calendar year, whichever is later.

(e) First-Level Grievance Review. -- A grievance may be submitted by a covered person or his or her provider acting on the covered person's behalf.

(1) The insurer does not have to allow a covered person to attend the first-level grievance review. A covered person may submit written material. Within three business days after receiving a grievance, the insurer shall provide the covered person with the name, address, and telephone number of the coordinator and information on how to submit written material.

(2) An insurer shall issue a written decision to the covered person and, if applicable, to the covered person's provider, within 30 days after receiving a grievance. The person or persons reviewing the grievance shall not be the same person or persons who initially handled the matter that is the subject of the grievance and, if the issue is a clinical one, at least one of whom shall be a medical doctor with appropriate expertise to evaluate the matter. The written decision issued in a first-level grievance review shall contain:

- a. The professional qualifications and licensure of the person or persons reviewing the grievance.
- b. A statement of the reviewers' understanding of the grievance.
- c. The reviewers' decision in clear terms and the contractual basis or medical rationale in sufficient detail for the covered person to respond further to the insurer's position.
- d. A reference to the evidence or documentation used as the basis for the decision.

- e. A statement advising the covered person of his or her right to request a second-level grievance review and a description of the procedure for submitting a second-level grievance under this section.

(f) Second-Level Grievance Review. -- An insurer shall establish a second-level grievance review process for covered persons who are dissatisfied with the first-level grievance review decision or a utilization review appeal decision.

- (1) An insurer shall, within 10 business days after receiving a request for a second-level grievance review, make known to the covered person:

- a. The name, address, and telephone number of a person designated to coordinate the grievance review for the insurer.
- b. A statement of a covered person's rights, which include the right to request and receive from an insurer all information relevant to the case; attend the second-level grievance review; present his or her case to the review panel; submit supporting materials before and at the review meeting; ask questions of any member of the review panel; and be assisted or represented by a person of his or her choice, which person may be without limitation to: a provider, family member, employer representative, or attorney. If the covered person chooses to be represented by an attorney, the insurer may also be represented by an attorney.

- (2) An insurer shall convene a second-level grievance review panel for each request. The panel shall comprise persons who were not previously involved in any matter giving rise to the second-level grievance, are not employees of the insurer or URO, and do not have a financial interest in the outcome of the review. A person who was previously involved in the matter may appear before the panel to present information or answer questions. All of the persons reviewing a second-level grievance involving a noncertification or a clinical issue shall be providers who have appropriate expertise, including at least one clinical peer. Provided, however, an insurer that uses a clinical peer on an appeal of a noncertification under G.S. 58-50-61 or on a first-level grievance review panel under this section may use one of the insurer's employees on the second-level grievance review panel in the same matter if the second-level grievance review panel comprises three or more persons.

(g) Second-Level Grievance Review Procedures. -- An insurer's procedures for conducting a second-level grievance review shall include:

- (1) The review panel shall schedule and hold a review meeting within 45 days after receiving a request for a second-level review.
- (2) The covered person shall be notified in writing at least 15 days before the review meeting date.
- (3) The covered person's right to a full review shall not be conditioned on the covered person's appearance at the review meeting.

(h) Second-Level Grievance Review Decisions. -- An insurer shall issue a written decision to the covered person and, if applicable, to the covered person's provider, within seven business days after completing the review meeting. The decision shall include:

- (1) The professional qualifications and licensure of the members of the review panel.
- (2) A statement of the review panel's understanding of the nature of the grievance and all pertinent facts.
- (3) The review panel's recommendation to the insurer and the rationale behind that recommendation.
- (4) A description of or reference to the evidence or documentation considered by the review panel in making the recommendation.
- (5) In the review of a noncertification or other clinical matter, a written statement of the clinical rationale, including the clinical review criteria, that was used by the review panel to make the recommendation.
- (6) The rationale for the insurer's decision if it differs from the review panel's recommendation.
- (7) A statement that the decision is the insurer's final determination in the matter.
- (8) Notice of the availability of the Commissioner's office for assistance, including the telephone number and address of the Commissioner's office.

(i) Expedited Second-Level Procedures. -- An expedited second-level review shall be made available where medically justified as provided in G.S. 58-50-61(i), whether or not the initial review was expedited. The provisions of subsections (f), (g), and (h) of this section apply to this subsection except for the following timetable: When a covered person is eligible for an expedited second-level review, the insurer shall conduct the review proceeding and communicate its decision within four days after receiving all necessary information. The review meeting may take place by way of a telephone conference call or through the exchange of written information.

(j) No insurer shall discriminate against any provider based on any action taken by the provider under this section or G.S. 58-50-61 on behalf of a covered person.

(k) Violation. -- A violation of this section subjects an insurer to G.S. 58-2-70."

Section 4.3. Article 1 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"§ 90-21.22A. Medical review committees.

(a) As used in this section, 'medical review committee' means a committee composed of health care providers licensed under this Chapter that is formed for the purpose of evaluating the quality of, cost of, or necessity for health care services, including provider credentialing. 'Medical review committee' does not mean a medical review committee established under G.S. 131E-95.

(b) A member of a duly appointed medical review committee who acts without malice or fraud shall not be subject to liability for damages in any

civil action on account of any act, statement, or proceeding undertaken, made, or performed within the scope of the functions of the committee.

(c) The proceedings of a medical review committee, the records and materials it produces, and the materials it considers shall be confidential and not considered public records within the meaning of G.S. 132-1 or G.S. 58-2-100; and shall not be subject to discovery or introduction into evidence in any civil action against a provider of health care services who directly provides services and is licensed under this Chapter or a hospital licensed under Chapter 122C or Chapter 131E of the General Statutes or that is owned or operated by the State, which civil action results from matters that are the subject of evaluation and review by the committee. No person who was in attendance at a meeting of the committee shall be required to testify in any civil action as to any evidence or other matters produced or presented during the proceedings of the committee or as to any findings, recommendations, evaluations, opinions, or other actions of the committee or its members. However, information, documents, or records otherwise available are not immune from discovery or use in a civil action merely because they were presented during proceedings of the committee. A member of the committee may testify in a civil action but cannot be asked about his or her testimony before the committee or any opinions formed as a result of the committee hearings.

(d) This section applies to a medical review committee, including a medical review committee appointed by one of the entities licensed under Articles 1 through 67 of Chapter 58 of the General Statutes.

(e) Subsection (c) of this section does not apply to proceedings initiated under G.S. 58-50-61 or G.S. 58-50-62."

Section 4.4. G.S. 58-50-60 is repealed.

PART V. EFFECTIVE DATE AND APPLICABILITY

Section 5. This act becomes effective January 1, 1998. Part II of this act applies to all health benefit plans that are delivered, issued for delivery, or renewed on and after January 1, 1998. For the purposes of this act, renewal of a health benefit plan is presumed to occur on each anniversary of the date on which coverage was first effective on the person or persons covered by the health benefit plan. Insurers other than health maintenance organizations that are subject to Part IV of this act have until July 1, 1998, to implement the procedures for grievances that are contained in Section 4.2 of Part IV of this act; provided, however, that insurers other than health maintenance organizations shall comply with the second-level grievance review procedures in Section 4.2 of Part IV of this act for appeals of noncertifications effective January 1, 1998.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law upon approval of the Governor at 10:40 a.m. on the 17th day of September, 1997.

AN ACT AMENDING CHAPTER 126 OF THE GENERAL STATUTES TO PROVIDE FOR THE OPEN, FAIR, AND NONPOLITICAL SELECTION OF THE MOST QUALIFIED PERSONS FOR STATE GOVERNMENT EMPLOYMENT BY LIMITING POLITICAL HIRINGS; RELATING TO THE DESIGNATION OF EXEMPT POSITIONS BY THE GOVERNOR AND OTHER MEMBERS OF THE COUNCIL OF STATE; LIMITING THE POLITICAL INVOLVEMENT OF MEMBERS OF THE GENERAL ASSEMBLY IN STATE GOVERNMENT PERSONNEL DECISIONS; EXTENDING BROADER PROTECTIONS TO STATE EMPLOYEES WHO REPORT GROSS MISMANAGEMENT AND IMPROPER GOVERNMENT ACTIVITIES; AND REQUIRING THE REPORTING OF MONETARY SETTLEMENTS OF STATE GOVERNMENT PERSONNEL MATTERS AND CERTAIN PERSONNEL PRACTICES TO THE STATE PERSONNEL COMMISSION AND TO THE JOINT LEGISLATIVE COMMISSION ON GOVERNMENTAL OPERATIONS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 126 of the General Statutes is amended by adding the following new sections to read:

"§ 126-14.2. Political hirings limited.

(a) It is the policy of this State that State departments, agencies, and institutions select from the pool of the most qualified persons for State government employment based upon job-related qualifications of applicants for employment using fair and valid selection criteria.

(b) All State departments, agencies, and institutions shall select from the pool of the most qualified persons for State government employment without regard to political affiliation or political influence. For the purposes of this section, the 'most qualified persons' shall mean each of the State employees or applicants for initial State employment who:

- (1) Have timely applied for a position in State government;
- (2) Have the essential qualifications for that position; and
- (3) Are determined to be substantially more qualified as compared to other applicants for the position, after applying fair and valid job selection criteria, in accordance with G.S. 126-5(e), G.S. 126-7.1, Articles 6 and 13 of this Chapter, and State personnel policies approved by the State Personnel Commission.

(c) It is a violation of this section giving rise to the remedies set forth in G.S. 126-14.4 if:

- (1) The complaining State employee or applicant for initial State employment timely applied for the State government position in question;
- (2) The complaining State employee or applicant for initial State employment was not hired into the position;
- (3) The complaining State employee or applicant for initial State employment was among the most qualified persons applying for the position as defined in this Chapter;

- (4) The successful applicant for the position was not among the most qualified persons applying for the position; and
- (5) The hiring decision was based upon political affiliation or political influence.

(d) The provisions of this section shall not apply to positions exempt from this Chapter, except that this section does apply to exempt managerial positions as defined by G.S. 126-5(b)(2).

"§ 126-14.3. Open and fair competition.

The State Personnel Commission shall adopt rules or policies to:

- (1) Assure recruitment, selection, and hiring procedures that encourage open and fair competition for positions in State government employment and that encourage the hiring of a diverse State government workforce.
- (2) Assure the proper and thorough advertisement of job openings in State government employment and lengthen, as appropriate, the period for submitting applications for State government employment.
- (3) Require that a closing date shall be posted for each job opening, unless an exception for critical classifications has been approved by the State Personnel Commission.
- (4) Require that timely written notice shall be provided to each unsuccessful applicant for State employment who is in the pool of the most qualified applicants for a position, as defined by G.S. 126-14.2(b).
- (5) Assure that State departments, agencies, and institutions follow similar selection processes when hiring State employees in accordance with this Chapter.
- (6) Assure that State supervisory and management personnel, and personnel professionals, receive adequate training and continuing education to carry out the State's policy of hiring from among the most qualified persons.
- (7) Establish a monitoring system to measure the effectiveness of State agency personnel procedures to promote fairness and reduce adverse impact on all demographic groups in the State government workforce.
- (8) Otherwise implement the State's policy of nonpolitical hiring practices in accordance with this Chapter."

Section 2. Chapter 126 of the General Statutes is amended by adding a new section to read:

"§ 126-14.4. Remedies.

(a) A State employee or applicant for initial State employment who has reason to believe that he or she was among the pool of the most qualified persons for a position in State government employment and was denied employment or promotion in violation of G.S. 126-14.2 because of political affiliation or political influence may complain directly through the Civil Rights Division of the Office of Administrative Hearings, which shall be responsible for making an initial determination of whether there is probable cause to believe that there has been a violation of G.S. 126-14.2.

The complaining State employee or applicant shall file a complaint with the Civil Rights Division of the Office of Administrative Hearings within 30 days after the complainant receives written notice that the position in question has been filled.

The Civil Rights Division of the Office of Administrative Hearings shall promptly make appropriate formal and informal inquiries in its investigatory, fact-finding role and may consider any matter, document, or statement deemed pertinent to the initial determination, including telephone conversations, in determining if there is probable cause to believe there has been a violation of G.S. 126-14.2. The Civil Rights Division may apply to an administrative law judge in the Office of Administrative Hearings for the issuance of oaths and subpoenas under G.S. 7A-756. The investigation and fact-finding phase of the complaint shall be completed by the Civil Rights Division within 30 days.

(b) The Civil Rights Division of the Office of Administrative Hearings shall notify the person alleged to have been hired in violation of G.S. 126-14.2 of the appeal, and the person may present any information to the Civil Rights Division that is pertinent to the initial determination of probable cause. The person alleged to have been hired in violation of G.S. 126-14.2 shall be notified of the results of the initial determination and shall have a right to intervene in any administrative proceedings pursuant to G.S. 150B-23(d).

(c) Upon an initial determination that there is probable cause to believe there has been a violation of G.S. 126-14.2, the complainant may file within 15 days a petition for a contested case pursuant to G.S. 126-34.1 and Article 3 of Chapter 150B of the General Statutes.

(d) An initial determination by the Civil Rights Division that there is not probable cause to believe there has been a violation of G.S. 126-14.2 shall be conclusive of any rights under that section but shall not be admissible or binding in any separate or subsequent civil action or proceeding.

(e) Within 90 days after the filing of a contested case petition, the administrative law judge shall issue a recommended decision to the State Personnel Commission which shall include findings of fact and conclusions of law and, if the administrative law judge has found a violation of G.S. 126-14.2, an appropriate recommended remedy.

(f) Within 60 days of receipt of the official record by the Office of Administrative Hearings, the State Personnel Commission shall make a final written decision as to whether there has been a violation of G.S. 126-14.2. In any case where a violation is found, the State Personnel Commission shall take suitable action to correct the violation, which may include:

- (1) Directing the State agency, department, or institution to declare the position vacant, and to hire from among the most qualified State employees or applicants for initial State employment who had applied for the position, or
 - (2) Requiring that the vacancy be posted pursuant to this Chapter.
- (g) A career State employee with:
- (1) Less than 10 years of service who was placed in an exempt managerial position, as defined by G.S. 126-5(b)(2), shall be given priority consideration for a position at the same salary grade

equal to that held in the most recent position prior to the promotion if he or she has to vacate because of violation of G.S. 126-14.2.

- (2) 10 or more years of service who was placed in an exempt managerial position, as defined by G.S. 126-5(b)(2), shall be placed in a comparable position at the same grade and salary equal to that held in the most recent position prior to the promotion if he or she had to vacate because of violation of G.S. 126-14.2.

Section 3. G.S. 126-5 reads as rewritten:

"§ 126-5. *Employees subject to Chapter; exemptions.*

- (a) The provisions of this Chapter shall apply to:

- (1) All State employees not herein exempt, and
- (2) To all employees of the following local entities:
 - a. Area mental health, developmental disabilities, and substance abuse authorities.
 - b. Local social services departments.
 - c. Local public health departments.
 - d. Local emergency management agencies that receive federal grant-in-aid funds.

An employee of a consolidated county human services agency created pursuant to G.S. 153A-77(b) is not considered an employee of an entity listed in this subdivision.

- (3) County employees not included under subdivision (2) of this subsection as the several boards of county commissioners may from time to time determine.
- (b) As used in this section, 'policymaking position' section:

- (1) 'Exempt position' means an exempt managerial position or an exempt policymaking position.
- (2) 'Exempt managerial position' means a position delegated with significant managerial or programmatic responsibility that is essential to the successful operation of a State department, agency, or division, so that the application of G.S. 126-35 to an employee in the position would cause undue disruption to the operations of the agency, department, institution, or division.
- (3) 'Exempt policymaking position' means a position delegated with the authority to impose the final decision as to a settled course of action to be followed within a department, agency, or division, so that a loyalty to the Governor or other elected department head in their respective offices is reasonably necessary to implement the policies of their offices. The term shall not include personnel professionals.
- (4) 'Personnel professional' means any employee in a State department, agency, institution, or division whose primary job duties involve administrative personnel and human resources functions for that State department, agency, institution, or division.

- (c) Except as to the policies, rules, and plans established by the Commission pursuant to G.S. 126-4(1), 126-4(2), 126-4(3), 126-4(4), 126-4(5), 126-4(6), and 126-7, and except as to the provisions of Articles 6 and 7 of this Chapter, the provisions of this Chapter shall not apply to:

- (1) A State employee who is not a career State employee as defined by this Chapter.
 - (2) One confidential assistant and two confidential secretaries for each elected or appointed department head and one confidential secretary for each chief deputy or chief administrative assistant.
 - (3) Employees in exempt policymaking positions designated as exempt pursuant to G.S. 126-5(d).
 - (4) The chief deputy or chief administrative assistant to the head of each State department who is designated either by statute or by the department head to act for and perform all of the duties of such department head during his absence or incapacity.
- (c1) Except as to the provisions of Articles 6 and 7 of this Chapter, the provisions of this Chapter shall not apply to:
- (1) Constitutional officers of the State.
 - (2) Officers and employees of the Judicial Department.
 - (3) Officers and employees of the General Assembly.
 - (4) Members of boards, committees, commissions, councils, and advisory councils compensated on a per diem basis.
 - (5) Officials or employees whose salaries are fixed by the General Assembly, or by the Governor, or by the Governor and Council of State, or by the Governor subject to the approval of the Council of State.
 - (6) Employees of the Office of the Governor that the Governor, at any time, in his discretion, exempts from the application of the provisions of this Chapter by means of a letter to the State Personnel Director designating these employees.
 - (7) Employees of the Office of the Lieutenant Governor, that the Lieutenant Governor, at any time, in his discretion, exempts from the application of the provisions of this Chapter by means of a letter to the State Personnel Director designating these employees.
 - (8) Instructional and research staff, physicians, and dentists of The University of North Carolina.
 - (9) Employees whose salaries are fixed under the authority vested in the Board of Governors of The University of North Carolina by the provisions of G.S. 116-11(4), 116-11(5), and 116-14.
 - (10) Repealed by Session Laws 1991, c. 84, s. 1.
 - (11) North Carolina School of Science and Mathematics' employees whose salaries are fixed in accordance with the provisions of G.S. 116-235(c)(1) and G.S. 116-235(c)(2).
 - (12) Employees of the North Carolina Low-Level Radioactive Waste Management Authority whose salaries are fixed pursuant to G.S. 104G-5(g)(1) and G.S. 104G-5(g)(2).
 - (13) Employees of the North Carolina Hazardous Waste Management Commission whose salaries are fixed pursuant to G.S. 130B-6(g)(1) and G.S. 130B-6(g)(2).
 - (14) Employees of the North Carolina State Ports Authority.
 - (15) Employees of the North Carolina Global TransPark Authority.

(16) The executive director and one associate director of the North Carolina Center for Nursing established under Article 9F of Chapter 90 of the General Statutes.

(c2) The provisions of this Chapter shall not apply to:

- (1) Public school superintendents, principals, teachers, and other public school employees.
- (2) Recodified as G.S. 126-5(c)(4) by Session Laws 1985 (Regular Session, 1986), c. 1014, s. 41.
- (3) Employees of community colleges whose salaries are fixed in accordance with the provisions of G.S. 115D-5 and G.S. 115D-20, and employees of the Department of Community Colleges whose salaries are fixed by the State Board of Community Colleges in accordance with the provisions of G.S. 115D-3.

(c3) Except as to the policies, rules, and plans established by the Commission pursuant to G.S. 126-4(5) and the provisions of Article 6 of this Chapter, the provisions of this Chapter shall not apply to: Teaching and related educational classes of employees of the Department of Correction, the Department of Human Resources, and any other State department, agency or institution, whose salaries shall be set in the same manner as set for corresponding public school employees in accordance with Chapter 115C of the General Statutes.

(c4) Repealed by Session Laws 1993, c. 321, s. 145(b).

(c5) Notwithstanding any other provision of this Chapter, Article 14 of this Chapter shall apply to all State employees, public school employees, and community college employees.

(c6) Except as to the policies, rules, and plans established by the Commission pursuant to G.S. 126-4(1), 126-4(2), 126-4(3), 126-4(4), 126-4(5), 126-4(6), 126-7, 126-14.3, and except as to the provisions of G.S. 126-14.2, G.S. 126-34.1(a)(2), and Articles 6 and 7 of this Chapter, the provisions of this Chapter shall not apply to exempt managerial positions.

(d) (1) General. Exempt Positions in Cabinet Department. -- The Governor may designate as exempt policymaking positions, as provided below, in each of a total of 100 exempt policymaking positions throughout the following departments:

- a. Department of Administration;
- b. Department of Commerce;
- c. Department of Correction;
- d. Department of Crime Control and Public Safety;
- e. Department of Cultural Resources;
- f. Department of Human Resources;
- g. Department of Environment, Health, and Natural Resources;
- h. Department of Revenue; and
- i. Department of Transportation.

The Governor may designate exempt managerial positions in a number up to one percent (1%) of the total number of full-time positions in each cabinet department listed above in this sub-subdivision, not to exceed 30 positions in each department. The Secretary of State, the Auditor, the Treasurer, the

~~Attorney General, the Commissioner of Agriculture, the Commissioner of Insurance, and the Labor Commissioner may designate as exempt policymaking positions, as provided below, in their respective offices. The State Board of Education may designate as exempt policymaking positions, as provided below, in the Department of Public Instruction.~~

- (2) ~~Number. -- The number of policymaking positions designated as exempt in each department or office listed in subsection (d)(1), except the Department of Commerce, shall be limited to one and two-tenths percent (1.2%) of the number of full-time positions in the department or office, or 30 positions, whichever is greater. The Governor may designate 85 policymaking positions as exempt in the Department of Economic and Community Development. Provided, however, that the~~

- (2) Exempt Positions in Council of State Departments and Offices. -- The Secretary of State, the Auditor, the Treasurer, the Attorney General, the Commissioner of Agriculture, the Commissioner of Insurance, and the Labor Commissioner may designate exempt positions. The State Board of Education may designate exempt positions in the Department of Public Instruction. The number of exempt policymaking positions in each department headed by an elected department head listed above in this sub-subdivision shall be limited to 20 exempt policymaking positions or one percent (1%) of the total number of full-time positions in the department, whichever is greater. The number of exempt managerial positions shall be limited to 20 positions or one percent (1%) of the total number of full-time positions in the department, whichever is greater.

- (2a) Designation of Additional Positions. -- The Governor, elected department head, or State Board of Education may request that additional policymaking positions be designated as exempt. The request shall be made by sending a list of policymaking exempt positions that exceed the limit imposed by this subsection to the Speaker of the North Carolina House of Representatives and the President of the North Carolina Senate. A copy of the list also shall be sent to the State Personnel Director. The General Assembly may authorize all, or part of, the additional policymaking positions to be designated as exempt. exempt positions. If the General Assembly is in session when the list is submitted and does not act within 30 days after the list is submitted, the list shall be deemed approved by the General Assembly, and the policymaking positions shall be designated as exempt. exempt positions. If the General Assembly is not in session when the list is submitted, the 30-day period shall not begin to run until the next date that the General Assembly convenes or reconvenes, other than for a special session called for a specific purpose not involving the approval of the list of additional positions to

- be designated as ~~exempt~~; exempt positions; the policymaking positions shall not be designated as exempt during the interim.
- (3) Letter. -- These positions shall be designated in a letter to the State Personnel Director, the Speaker of the House of Representatives, and the President of the Senate by May 1 of the year in which the oath of office is administered to each Governor unless the provisions of subsection (d)(4) apply.
- (4) Vacancies. -- In the event of a vacancy in the Office of Governor or in the office of a member of the Council of State, the person who succeeds to or is appointed or elected to fill the unexpired term shall make such designations in a letter to the State Personnel Director, the Speaker of the House of Representatives, and the President of the Senate within 120 days after the oath of office is administered to that person. In the event of a vacancy in the Office of Governor, the State Board of Education shall make these designations in a letter to the State Personnel Director, the Speaker of the House of Representatives, and the President of the Senate within 120 days after the oath of office is administered to the Governor.
- (5) Creation, Transfer, or Reorganization. -- The Governor, elected department head, or State Board of Education may designate as exempt a policymaking position that is created or transferred to a different department, or is located in a department in which reorganization has occurred, after May 1 of the year in which the oath of office is administered to the Governor. The designation must be made in a letter to the State Personnel Director, the Speaker of the North Carolina House of Representatives, and the President of the North Carolina Senate within 120 days after such position is created, transferred, or in which reorganization has occurred.
- (6) Reversal. -- Subsequent to the designation of a policymaking position as an exempt position as hereinabove provided, the status of the position may be reversed and made subject to the provisions of this Chapter by the Governor, by an elected department head, or by the State Board of Education in a letter to the State Personnel Director, the Speaker of the North Carolina House of Representatives, and the President of the North Carolina Senate.
- (7) Hearing Officers. -- Except as otherwise specifically provided by this section, no employee, by whatever title, whose primary duties include the power to conduct hearings, take evidence, and enter a decision based on findings of fact and conclusions of law based on statutes and legal precedents shall be designated as exempt. This subdivision shall apply beginning July 1, 1985, and no list submitted after that date shall designate as exempt any employee described in this subdivision.

(e) An exempt employee may be transferred, demoted, or separated from his or her position by the department head authorized to designate the exempt position except:

- (1) When an employee who has the minimum service requirements described in subsection (c)(1) above but less than 10 years of cumulative service in subject positions prior to placement in an exempt position is removed from an exempt position, for reasons other than just cause, the employee shall have priority to any position that becomes available for which the employee is qualified, according to rules and regulations regulating and defining priority as promulgated by the State Personnel Commission; or
- (2) When an employee who has 10 years or more cumulative service, including the immediately preceding 12 months, in subject positions prior to placement in an exempt position is removed from an exempt position, for reasons other than just cause, the employee shall be reassigned to a subject position within the same department or agency, or if necessary within another agency, and within a 35 mile radius of the exempt position, at the same grade and salary, including all across-the-board increases since placement in the position designated as exempt, as his most recent subject position.

(f) A department head is authorized to use existing budgeted positions within his department in order to carry out the provisions of subsection (e) of this section. If it is necessary to meet the requirements of subsection (e) of this section, a department head may use salary reserve funds authorized for his department.

(g) No employee shall be placed in an exempt position without 10 working days prior written notification that such position is so designated. A person applying for a position that is designated as exempt must be notified in writing at the time he makes the application that the position is designated as exempt.

(h) In case of dispute as to whether an employee is subject to the provisions of this Chapter, the dispute shall be resolved as provided in Article 3 of Chapter 150B."

Section 4. G.S. 126-34.1 reads as rewritten:

"§ 126-34.1. *Grounds for contested case under the State Personnel Act defined.*

(a) A State employee or former State employee may file in the Office of Administrative Hearings a contested case under Article 3 of Chapter 150B of the General Statutes only as to the following personnel actions or issues:

- (1) Dismissal, demotion, or suspension without pay based upon an alleged violation of G.S. 126-35, if the employee is a career State employee.
- (2) An alleged unlawful State employment practice constituting discrimination, as proscribed by G.S. 126-36, including:
 - a. Denial of promotion, transfer, or training, on account of the employee's age, sex, race, color, national origin, religion,

creed, political affiliation, or handicapping condition as defined by Chapter 168A of the General Statutes.

- b. Demotion, reduction in force, or termination of an employee in retaliation for the employee's opposition to alleged discrimination on account of the employee's age, sex, race, color, national origin, religion, creed, political affiliation, or handicapping condition as defined by Chapter 168A of the General Statutes.

- (3) Retaliation against an employee, as proscribed by G.S. 126-17, for protesting an alleged violation of G.S. 126-16.
- (4) Denial of the veteran's preference granted in accordance with Article 13 of this Chapter in initial State employment or in connection with a reduction in force, for an eligible veteran as defined by G.S. 126-81.
- (5) Denial of promotion for failure to post or failure to give priority consideration for promotion or reemployment, to a career State employee as required by G.S. 126-7.1 and G.S. 126-36.2.
- (6) Denial of an employee's request for removal of allegedly inaccurate or misleading information from the employee's personnel file as provided by G.S. 126-25.
- (7) Any retaliatory personnel action that violates G.S. 126-85.
- (8) Denial of promotion in violation of G.S. 126-14.2, where an initial determination found probable cause to believe there has been a violation of G.S. 126-14.2.
- (9) Denial of employment in violation of G.S. 126-14.2, where an initial determination found probable cause to believe that there has been a violation of G.S. 126-14.2.

(b) An applicant for initial State employment may file in the Office of Administrative Hearings a contested case under Article 3 of Chapter 150B of the General Statutes based upon:

- (1) Alleged denial of employment in violation of G.S. 126-16.
- (2) Denial of the applicant's request for removal of allegedly inaccurate or misleading information from the ~~employee's~~ personnel file as provided by G.S. 126-25.
- (3) Denial of equal opportunity for employment and compensation on account of the employee's age, sex, race, color, national origin, religion, creed, political affiliation, or handicapping condition as defined by Chapter 168A of the General Statutes. This subsection with respect to equal opportunity as to age shall be limited to persons who are at least 40 years of age. An applicant may not, however, file a contested case where political affiliation was the reason for the person's nonselection for (i) an exempt policymaking position as defined in G.S. 126-5(b)(3), (ii) a chief deputy or chief administrative assistant position under G.S. 126-5(c)(4), or (iii) a confidential assistant or confidential secretary position under G.S. 126-5(c)(2).
- (4) Denial of the veteran's preference in initial State employment provided by Article 13 of this Chapter, for an eligible veteran as defined by G.S. 126-81.

- (5) Denial of employment in violation of G.S. 126-14.2, where an initial determination found probable cause to believe that there has been a violation of G.S. 126-14.2.

(c) In the case of a dispute as to whether a State employee's position is properly exempted from the State Personnel Act under G.S. 126-5, the employee may file in the Office of Administrative Hearings a contested case under Article 3 of Chapter 150B of the General Statutes.

(d) A State employee or applicant for State employment may file in the Office of Administrative Hearings a contested case under Article 3 of Chapter 150B of the General Statutes based upon a false accusation regarding, or disciplinary action relating to, the employee's alleged violation of G.S. 126-14 or G.S. 126-14.1.

(e) Any issue for which appeal to the State Personnel Commission through the filing of a contested case under Article 3 of Chapter 150B of the General Statutes has not been specifically authorized by this section shall not be grounds for a contested case under Chapter 126."

Section 5. G.S. 126-84 reads as rewritten:

"§ 126-84. *Statement of policy.*

(a) It is the policy of this State that State employees shall be encouraged to report verbally or in writing to their supervisor, department head, or other appropriate authority, evidence of activity by a State agency or State employee constituting:

- (1) A violation of State or federal law, rule or regulation;
- (2) Fraud;
- (3) Misappropriation of State Resources; or
- (4) Substantial and specific danger to the public health and safety, safety; or
- (5) Gross mismanagement, a gross waste of monies, or gross abuse of authority.

(b) Further, it is the policy of this State that State employees be free of intimidation or harassment when reporting to public bodies about matters of public concern, including offering testimony to or testifying before appropriate legislative panels."

Section 6. G.S. 126-85 reads as rewritten:

"§ 126-85. *Protection from retaliation.*

(a) No head of any State department, agency or institution or other State employee exercising supervisory authority shall discharge, threaten or otherwise discriminate against a State employee regarding the State employee's compensation, terms, conditions, location, or privileges of employment because the State employee, or a person acting on behalf of the employee, reports or is about to report, verbally or in writing, any activity described in G.S. 126-84, unless the State employee knows or has reason to believe that the report is inaccurate.

(a1) No State employee shall retaliate against another State employee because the employee, or a person acting on behalf of the employee, reports or is about to report, verbally or in writing, any activity described in G.S. 126-84.

(b) No head of any State department, agency or institution or other State employee exercising supervisory authority shall discharge, threaten or

otherwise discriminate against a State employee regarding the employee's compensation, terms, conditions, location or privileges of employment because the State employee has refused to carry out a directive which in fact constitutes a violation of State or federal law, rule or regulation or poses a substantial and specific danger to the public health and safety.

(b1) No State employee shall retaliate against another State employee because the employee has refused to carry out a directive which may constitute a violation of State or federal law, rule or regulation, or poses a substantial and specific danger to the public health and safety.

(c) The protections of this Article shall include State employees who report any activity described in G.S. 126-84 to the State Auditor as authorized by G.S. 147-64.6(c)(16)."

Section 7. Article 13B of Chapter 120 of the General Statutes is amended by adding a new section to read:

"§ 120-86.1. Personnel-related action unethical.

It shall be unethical for a legislator to take, promise, or threaten any legislative action, as defined in G.S. 120-47.1(4), for the purpose of influencing or in retaliation for any action regarding State employee hirings, promotions, grievances, or disciplinary actions subject to Chapter 126 of the General Statutes."

Section 8. (a) Beginning January 1, 1998, and quarterly thereafter, the head of each State agency, department, or institution employing State employees subject to the State Personnel Act shall report to the Office of State Personnel on the following:

- (1) The costs associated with the defense or settlement of administrative grievances and lawsuits filed by current or former State employees and applicants for State employment, including the costs of settlements, attorneys' fees, litigation expenses, damages, or awards incurred by the respective State agencies, departments, and institutions. The report shall include an explanation of the fiscal impact of these costs upon the operations of the State agency, department, or institution.
- (2) The modification of position descriptions resulting in changes in position qualifications to allow the use of educational, experience, or other equivalencies in the hiring or promotion of State employees where such equivalencies were not previously used in the position descriptions. The report shall include an explanation of the reasons for the changes in the position descriptions and the bases for the use of the equivalencies.

(b) Beginning May 1, 1998, and annually thereafter, the State Personnel Commission shall report to the Joint Legislative Commission on Governmental Operations on the costs associated with the defense or settlement of lawsuits and on the use of position qualification equivalencies, as compiled in accordance with subsection (a) of this section.

(c) Beginning May 1, 1998, and then annually thereafter, the State Personnel Commission, through the Office of State Personnel, shall report to the Joint Legislative Commission on Governmental Operations on outcomes with respect to State employee hirings, promotions, disciplinary actions, and compensation, based upon demographics.

(d) By May 1, 1998, the State Personnel Commission shall report to the Joint Legislative Commission on Governmental Operations on its development of a systematized approach to State employee recruitment utilizing standards and measures of outcomes across agency lines.

(e) By May 1, 1998, the State Personnel Commission shall conduct a study and make a report to the Joint Legislative Commission on Governmental Operations on the salary administration of positions exempt from the State Personnel Act as it relates to the placement of exempt positions in the salary range.

Section 9. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law upon approval of the Governor at 10:45 a.m. on the 17th day of September, 1997.

H.B. 1057

CHAPTER 521

AN ACT TO EXEMPT FROM SALES TAX AUDIOVISUAL MASTER TAPES USED IN THE MOTION PICTURE, TELEVISION, AND AUDIO PRODUCTION INDUSTRIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.13 is amended by adding a new subdivision to read:

"(22a) Sales of audiovisual masters made or used by a production company in making visual and audio images for first generation reproduction. For the purpose of this subdivision, an 'audiovisual master' is an audio or video film, tape, or disk or another audio or video storage device from which all other copies are made. For the purpose of this subdivision, a production company is a person engaged in the business of making motion picture, television, or radio images for theatrical, commercial, advertising, or educational purposes."

Section 2. This act becomes effective October 1, 1997, and applies to sales made on or after that date.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law upon approval of the Governor at 11:00 a.m. on the 17th day of September, 1997.

S.B. 851

CHAPTER 522

AN ACT REGARDING ADULT CARE HOME LICENSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 131D-2(b) reads as rewritten:

"(b) Licensure; inspections. --

(1) The Department of Human Resources shall inspect and license, under rules adopted by the Social Services Commission, all adult

care homes for persons who are aged or mentally or physically disabled except those exempt in subsection (c) of this section. Licenses issued under the authority of this section shall be valid for one year from the date of issuance unless revoked earlier by the Secretary of Human Resources for failure to comply with any part of this section or any rules adopted hereunder. No new license shall be issued for any domiciliary home whose administrator was the administrator for any domiciliary home (adult care home) that had its license revoked until one full year after the date of revocation. Licenses shall be renewed annually upon filing and the Department's approval of the renewal application. A license shall not be renewed if outstanding fines and penalties imposed by the State against the home have not been paid. Fines and penalties for which an appeal is pending are exempt from consideration. The renewal application shall contain all necessary and reasonable information that the Department may by rule require. The Department may amend a license by reducing it from a full license to a provisional license whenever the Department finds that:

- a. The licensee has substantially failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles;
- b. There is a reasonable probability that the licensee can remedy the licensure deficiencies within a reasonable length of time; and
- c. There is a reasonable probability that the licensee will be able thereafter to remain in compliance with the licensure rules for the foreseeable future.

The Department may revoke a license whenever:

- a. The Department finds that:
 1. The licensee has substantially failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles; and
 2. It is not reasonably probable that the licensee can remedy the licensure deficiencies within a reasonable length of time; or
- b. The Department finds that:
 1. The licensee has substantially failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles; and
 2. Although the licensee may be able to remedy the deficiencies within a reasonable time, it is not reasonably probable that the licensee will be able to remain in compliance with licensure rules for the foreseeable future; or
- c. The Department finds that the licensee has failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the

General Statutes and the rules adopted pursuant to these Articles, and the failure to comply endangered the health, safety, or welfare of the patients in the facility.

The Department may also issue a provisional license to a facility, pursuant to rules adopted by the Social Services Commission, for substantial failure to comply with the provisions of this section or rules promulgated pursuant to this section. Any facility wishing to contest the issuance of a provisional license shall be entitled to an administrative hearing as provided in the Administrative Procedure Act, Chapter 150B of the General Statutes. A petition for a contested case shall be filed within 30 days after the Department mails written notice of the issuance of the provisional license.

- (1a) In addition to the licensing and inspection requirements mandated by subdivision (1) of this subsection, the Department shall ensure that adult care homes required to be licensed by this Article are monitored for licensure compliance on a regular basis. In carrying out this requirement, the Department shall work with county departments of social services to do the routine monitoring and to have the Division of Facility Services oversee this monitoring and perform any follow-up inspection called for. The Department shall also keep an up-to-date directory of all persons who are administrators as defined in subdivision (1a) of subsection (a) of this section.
- (2) Any individual or corporation that establishes, conducts, manages, or operates a facility subject to licensure under this section without a license is guilty of a Class 3 misdemeanor, and upon conviction shall be punishable only by a fine of not more than fifty dollars (\$50.00) for the first offense and not more than five hundred dollars (\$500.00) for each subsequent offense. Each day of a continuing violation after conviction shall be considered a separate offense.
- (3) In addition, the Department may summarily suspend a license pursuant to G.S. 150B-3(c) whenever it finds substantial evidence of abuse, neglect, exploitation or any condition which presents an imminent danger to the health and safety of any resident of the home. Any facility wishing to contest summary suspension of a license shall be entitled to an administrative hearing as provided in the Administrative Procedure Act, Chapter 150B of the General Statutes. A petition for a contested case shall be filed within 20 days after the Department mails a notice of summary suspension to the licensee.
- (4) Notwithstanding G.S. 8-53 or any other law relating to confidentiality of communications between physician and patient, in the course of an inspection conducted under subsection (b):
 - a. Department representatives may review any writing or other record concerning the admission, discharge, medication, care, medical condition, or history of any person who is or has been a resident of the facility being inspected, and

- b. Any person involved in giving care or treatment at or through the facility may disclose information to Department representatives;
unless the resident objects in writing to review of his records or disclosure of such information.

The facility, its employees and any other person interviewed in the course of an inspection shall be immune from liability for damages resulting from disclosure of any information to the Department.

The Department shall not disclose:

- a. Any confidential or privileged information obtained under this subsection unless the resident or his legal representative authorizes disclosure in writing or unless a court of competent jurisdiction orders disclosure, or
b. The name of anyone who has furnished information concerning a facility without that person's consent.

The Department shall institute appropriate policies and procedures to ensure that unauthorized disclosure does not occur. All confidential or privileged information obtained under this section and the names of persons providing such information shall be exempt from Chapter 132 of the General Statutes.

- (5) Notwithstanding any law to the contrary, Chapter 132 of the General Statutes, the Public Records Law, applies to all records of the State Division of Social Services of the Department of Human Resources and of any county department of social services regarding inspections of domiciliary care facilities except for information in the records that is confidential or privileged, including medical records, or that contains the names of residents or complainants."

Section 2. This act is effective when it becomes law and applies beginning with calendar year 1998.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law upon approval of the Governor at 11:02 a.m. on the 17th day of September, 1997.

S.B. 516

CHAPTER 523

AN ACT TO ESTABLISH A STATE-ADMINISTERED LEAD-BASED PAINT HAZARD MANAGEMENT PROGRAM IN LIEU OF HAVING A FEDERALLY ADMINISTERED PROGRAM APPLY IN THIS STATE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 130A of the General Statutes is amended by adding the following new Article to read:

"ARTICLE 19A.

"Lead-Based Paint Hazard Management Program.

"§ 130A-453.01. Definitions.

Unless otherwise required by the context, the definitions set out in 40 Code of Federal Regulations § 745.223 (As set out in Vol. 61, No. 169, of the Federal Register, pages 45813 to 45815, 29 August 1996) apply throughout this Article.

"§ 130A-453.02. Purpose of Article.

(a) This Article is enacted to establish an authorized State program under section 404 of the Toxic Substances Control Act (15 U.S.C. § 2684), as enacted by Subtitle B, section 1021 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 (Pub. L. 102-550, 106 Stat. 3916), that will apply in this State in lieu of the corresponding federal program administered by the federal Environmental Protection Agency. This Article requires a person who performs an inspection, risk assessment, or abatement of a child-occupied facility or target housing to be certified and establishes the procedure and requirements for certification. It also requires a person who conducts an abatement of a child-occupied facility or target housing to obtain a permit for the abatement.

(b) This Article does not require the inspection, risk assessment, or abatement of a child-occupied facility or target housing under any circumstance. G.S. 130A-131.5 and the rules adopted to implement that section authorize the Department to order an abatement to eliminate a lead poisoning hazard. This Article does not expand or otherwise change that authority.

"§ 130A-453.03. Certification of individuals who perform inspections, risk assessments, or abatements.

(a) Requirement. -- An individual shall not perform or offer to perform an inspection, risk assessment, or abatement of target housing or a child-occupied facility unless the individual is certified by the Department to perform the activity. Performance of an inspection, risk assessment, or abatement encompasses a range of activities. To ensure proper performance of all aspects of an inspection, risk assessment, or abatement, the certification requirement imposed on an individual applies to each activity. The categories of individual certification are inspector, risk-assessor, designer, supervisor, worker, and any other category required by federal law. The category of risk-assessor includes the category of inspector. Thus, a person who is certified as a risk-assessor is not required to be certified as an inspector. Otherwise, an individual who performs or offers to perform activities within the scope of more than one category must be certified in each category.

(b) Exemption. -- The certification requirement imposed by this section does not apply to an individual who performs an abatement of a residential dwelling the person owns and occupies as a residence, unless the residential dwelling is occupied by a person or persons other than the owner or the owner's immediate family while an abatement is being performed, or a child residing in the dwelling has been identified as having an elevated blood lead level.

"§ 130A-453.04. Certification and other requirements of firms that perform inspections, risk assessments, or abatements.

A firm or other entity shall not perform or offer to perform an inspection, risk assessment, or abatement of target housing or a child-occupied facility

unless the entity is certified by the Department as a firm that is qualified to perform the activity. An entity that performs an inspection, risk assessment, or abatement of target housing or a child-occupied facility shall not use an individual to perform the inspection, risk assessment, or abatement unless the individual is certified by the Department to perform the activity.

"§ 130A-453.05. Qualifications for certification of individuals and firms.

To be certified under this Article, a person must meet the qualification requirements set by the Commission. Qualification requirements include education, training, experience, the successful completion of an examination, and payment of any applicable fee.

"§ 130A-453.06. Renewal of certification.

A certification of an individual or a firm issued under this Article expires on the last day of the 12th month after the certification is issued. A certification may be renewed by paying the renewal fee and meeting any standards for renewal, such as refresher training, established by the Commission.

"§ 130A-453.07. Accreditation of training courses and training providers.

Completion of a training course on inspection, risk assessment, or abatement does not satisfy a training requirement that is a condition for certification under this Article unless both the course provider and the course have been accredited by the Department. The Commission shall establish the procedure and standards for a course provider and a course to be accredited.

"§ 130A-453.08. Certification and accreditation fee schedule.

(a) The Commission shall establish fees for the items listed in the table below. A fee for an item may not exceed the maximum amount set in the table. The fees for examination and certification apply to each category in which a person is examined for certification or is certified.

<u>Item</u>	<u>Maximum Fee</u>
<u>Examination for certification</u>	<u>\$75</u>
<u>Certification as worker</u>	<u>50</u>
<u>Certification in any category other</u>	
<u>than worker</u>	<u>150</u>
<u>Course provider accreditation</u>	<u>150</u>
<u>Initial course accreditation</u>	<u>2,000</u>
<u>Renewal course accreditation</u>	<u>750.</u>

(b) Use. -- The fees imposed under this section are departmental receipts and shall be used by the Department to administer this Article.

(c) Exemptions. -- The examination and certification fees imposed under this section do not apply to governmental regulatory personnel who perform inspections, risk assessments, or abatements solely for the purpose of determining compliance with applicable statutes or rules. The course provider fees imposed under this section do not apply to the State, a unit of local government, or a nonprofit entity. The course accreditation fees imposed under this section do not apply to a course offered by the State, a unit of local government, or a nonprofit entity.

"§ 130A-453.09. Abatement permits.

(a) Requirement. -- No person shall conduct an abatement of target housing or a child-occupied facility unless the person has obtained a permit

for the abatement from the Department. The Commission shall establish the procedure for obtaining a permit.

(b) Permit Fee. -- An applicant for an abatement permit must pay an application fee to the Department. The fee is two percent (2%) of the contracted price for the corrective action to be performed in the abatement, not to exceed five hundred dollars (\$500.00). The fee imposed under this section is a departmental receipt and shall be used by the Department to administer this Article.

(c) Exemption. -- An individual who owns a single-family dwelling, conducts an abatement on the dwelling, and will reside in the dwelling after the abatement is completed is not required to obtain a permit to conduct the abatement, unless the dwelling is occupied by a person or persons other than the owner or the owner's immediate family while the abatement is being performed, or a child residing in the building has been identified as having an elevated blood lead level. If a permit is required, an individual who performs an abatement of a residential dwelling that the individual owns and occupies as a residence is not required to pay a fee for the permit.

"§ 130A-453.10. Standards to ensure elimination of hazards; consumer information.

(a) Standards. -- The Commission shall establish standards to ensure that inspections, risk assessments, and abatements performed under this Article result in the elimination of lead-based paint hazards. An inspection, risk assessment, or abatement performed under this Article must be performed in accordance with these standards.

(b) Information. -- The Department shall prepare a fact sheet on abatement for distribution to consumers. The sheet shall list the various measures for abatement of a child-occupied facility or target housing and give the relative cost of each measure. A person who is certified under this Article shall give a copy of the sheet to a person for whom the certified person performs an abatement.

"§ 130A-453.11. Commission to adopt rules.

The Commission shall adopt rules to implement this Article."

Section 2. G.S. 130A-22 is amended by adding a new subsection to read:

"(b3) The Secretary may impose an administrative penalty on a person who violates Article 19A of this Chapter or any rules adopted pursuant to Article 19A of this Chapter. Each day of a continuing violation is a separate violation. The penalty shall not exceed one thousand dollars (\$1,000) for each day the violation continues. The penalty authorized by this section does not apply to a person who is not required to be certified under this Article."

Section 3. G.S. 130A-453.11, as enacted by this act, and this section are effective when they become law. The remainder of this act becomes effective 1 July 1998 unless, as of that date, Subpart L of Part 745 of Title 40 of the Code of Federal Regulations (40 C.F.R. § 745.220, et seq., as set out in the Federal Register of 29 August 1996) is scheduled to become effective later than 1 September 1998, in which case the remainder of this act becomes effective when Subpart L of Part 745 of Title 40 of the Code of

Federal Regulations becomes effective. This act does not affect the interim certification program requirements that apply before 7 July 1998 for individuals who perform lead-based paint activities funded by a grant from the federal government.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law upon approval of the Governor at 11:04 a.m. on the 17th day of September, 1997.

S.B. 947

CHAPTER 524

AN ACT TO MODIFY THE BURDEN OF PROOF THAT MUST BE SATISFIED TO OBTAIN A CERTIFICATE AUTHORIZING AN INTERBASIN TRANSFER OF SURFACE WATERS, TO DIRECT THE ENVIRONMENTAL REVIEW COMMISSION TO STUDY ISSUES RELATING TO INTERBASIN TRANSFERS, AND TO IMPOSE A TEMPORARY MORATORIUM ON CERTAIN INTERBASIN TRANSFERS DURING THE PENDENCY OF THE STUDY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-215.221(g) reads as rewritten:

"(g) A certificate shall be granted for a water transfer unless if the applicant establishes and the Commission concludes by a preponderance of the evidence based upon the findings of fact made under subsection (f) of this section that the potential detriments of the proposed transfer outweigh the benefits of the transfer, that: (i) the benefits of the proposed transfer outweigh the detriments of the proposed transfer, and (ii) the detriments have been or will be mitigated to a reasonable degree. The conditions necessary to ensure that the detriments are and continue to be mitigated to a reasonable degree shall be attached to the certificate in accordance with subsection (h) of this section."

Section 2. The Environmental Review Commission shall study issues relating to the transfer of surface waters between river basins in the State. As a part of this study, the Environmental Review Commission shall consider whether, and on what basis, the total volume of water that may be transferred from any river basin should be limited and whether the Environmental Management Commission should be authorized to issue special orders to remedy violations of laws or rules regulating transfers. The Environmental Review Commission shall report its findings, recommendations, and legislative proposals, if any, to the 1998 Regular Session of the General Assembly.

Section 3. As used in this section, "transfer" has the same meaning as in G.S. 143-215.22G. There is imposed a moratorium on any new transfer and on any increase in the permitted volume of an existing transfer for which a certificate is required under G.S. 143-215.221. The Environmental Management Commission shall not issue a certificate for a new transfer or approve an increase in the permitted volume of an existing transfer during the period that the moratorium imposed by this section is in effect. During the moratorium imposed by this section, the Environmental

Management Commission may hold public meetings or hearings, gather information, and analyze additional data relevant to any interbasin transfer application submitted to it.

The moratorium imposed by this section does not apply to an application to increase the volume of an existing transfer that, on 1 May 1997, is registered under G.S. 143-215.22H and:

- (1) Was not permitted under G.S. 153A-285, repealed by Section 4 of Chapter 348 of the 1993 Session Laws, or G.S. 162A-7, repealed by Section 6 of Chapter 348 of the 1993 Session Laws; and
- (2) For which a certificate has not been issued under G.S. 143-215.22I.

Section 4. This act is effective when it becomes law. Section 3 of this act expires on the date that the 1997 General Assembly adjourns its 1998 Regular Session sine die.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law upon approval of the Governor at 11:30 a.m. on the 17th day of September, 1997.

S.B. 1065

CHAPTER 525

AN ACT TO EXPAND THE INCOME TAX EXCLUSION FOR SEVERANCE PAY TO INCLUDE SEVERANCE PAY DUE TO AN EMPLOYEE'S INVOLUNTARY TERMINATION THROUGH NO FAULT OF THE EMPLOYEE.

The General Assembly of North Carolina enacts:

Section 1. G. S. 105-134.6(b)(11) reads as rewritten:

"(11) ~~The amount paid to the taxpayer as severance wages as the result of the permanent closure of a manufacturing or processing plant, not to exceed a maximum of thirty-five thousand dollars (\$35,000) for the taxable year. Severance wages received by a taxpayer from an employer as the result of the taxpayer's permanent, involuntary termination from employment through no fault of the employee. The amount of severance wages deducted as the result of the same termination may not exceed thirty-five thousand dollars (\$35,000) for all taxable years in which the wages are received.~~"

Section 2. This act is effective for taxable years beginning on or after January 1, 1998.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law upon approval of the Governor at 11:32 a.m. on the 17th day of September, 1997.

H.B. 652

CHAPTER 526

AN ACT TO AMEND THE STATUTES GOVERNING THE OFFICE OF THE STATE AUDITOR TO PROHIBIT OBSTRUCTION OF AN AUDIT.

The General Assembly of North Carolina enacts:

Section 1. Article 5A of Chapter 147 is amended by adding a new section to read as follows:

"§ 147-64.7A. Obstruction of audit.

Any person who shall willfully make or cause to be made to the State Auditor or his designated representatives any false, misleading, or unfounded report for the purpose of interfering with the performance of any audit, special review, or investigation, or to hinder or obstruct the State Auditor or the State Auditor's designated representatives in the performance of their duties, shall be guilty of a Class 2 misdemeanor."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law upon approval of the Governor at 11:35 a.m. on the 17th day of September, 1997.

H.B. 87

CHAPTER 527

AN ACT TO EXEMPT THE CENTENNIAL CAMPUS OF NORTH CAROLINA STATE UNIVERSITY AT RALEIGH FROM THE UMSTEAD ACT, WHICH PROHIBITS STATE GOVERNMENT FROM ENGAGING IN THE SALE OF GOODS IN COMPETITION WITH CITIZENS OF THE STATE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 66-58(b)(8) reads as rewritten:

"(8) The Greater University of North Carolina with regard to its utilities and other services now operated by it nor to the sale of articles produced incident to the operation of instructional departments, articles incident to educational research, articles of merchandise incident to classroom work, meals, books, or to articles of merchandise not exceeding twenty-five cents (25¢) in value when sold to members of the educational staff or staff auxiliary to education or to duly enrolled students or occasionally to immediate members of the families of members of the educational staff or of duly enrolled students nor to the sale of meals or merchandise to persons attending meetings or conventions as invited guests nor to the operation by the University of North Carolina of an inn or hotel and dining and other facilities usually connected with a hotel or inn, nor to the hospital and Medical School of the University of North Carolina, nor to the Coliseum of North Carolina State College, University at Raleigh, nor to the Centennial Campus of North Carolina State

University at Raleigh, and the other schools and colleges for higher education maintained or supported by the State, nor to the comprehensive student health services or the comprehensive student infirmaries maintained by the constituent institutions of the University of North Carolina."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law upon approval of the Governor at 11:37 a.m. on the 17th day of September, 1997.

H.B. 227

CHAPTER 528

AN ACT TO PROVIDE THAT RECORDATION OF AN INACTIVE HAZARDOUS SUBSTANCE OR WASTE DISPOSAL SITE IS NOT REQUIRED IN CERTAIN CASES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130A-310.8 reads as rewritten:

"§ 130A-310.8. *Recordation of inactive hazardous substance or waste disposal sites.*

(a) After determination by the Department of the existence and location of an inactive hazardous substance or waste disposal site, the owner of the real property on which the site is located, within 180 days after official notice to him to do so, shall submit to the Department a survey plat of areas designated by the Department which has been prepared and certified by a professional land surveyor, and entitled 'NOTICE OF INACTIVE HAZARDOUS SUBSTANCE OR WASTE DISPOSAL SITE'. The Notice shall include a legal description of the site that would be sufficient as a description in an instrument of conveyance, shall meet the requirements of G.S. 47-30 for maps and plats, and shall identify:

- (1) The location and dimensions of the disposal areas with respect to permanently surveyed benchmarks; and
- (2) The type, location, and quantity of hazardous substances disposed of on the site, to the best of the owner's knowledge.

Where an Inactive Hazardous Substance or Waste Disposal Site is located on more than one parcel or tract of land, a composite map or plat showing all such sites may be recorded.

(b) After the Department approves and certifies the Notice, the owner of the site shall file the certified copy of the Notice in the register of deeds' office in the county or counties in which the land is located.

(c) The register of deeds shall record the certified copy of the Notice and index it in the grantor index under the names of the owners of the lands.

(d) In the event that the owner of the site fails to submit and file the Notice required by this section within the time specified, the Secretary may prepare and file such Notice. The costs thereof may be recovered by the Secretary from any responsible party. In the event that an owner of a site who is not a responsible party submits and files the Notice required by this

section, he may recover the reasonable costs thereof from any responsible party.

(c) When an inactive hazardous substance or waste disposal site is sold, leased, conveyed, or transferred, the deed or other instrument of transfer shall contain in the description section, in no smaller type than that used in the body of the deed or instrument, a statement that the property has been used as a hazardous substance or waste disposal site and a reference by book and page to the recordation of the Notice.

(f) A Notice of Inactive Hazardous Substance or Waste Disposal Site shall be cancelled by the Secretary after the hazards have been eliminated. The Secretary shall send to the register of deeds of the county where the Notice is recorded a statement that the hazards have been eliminated and request that the Notice be cancelled of record. The Secretary's statement shall contain the names of the landowners as shown in the Notice and reference the plat book and page where the Notice is recorded. The register of deeds shall record the Secretary's statement in the deed books and index it on the grantor index in the name of the landowner as shown in the Notice and on the grantee index in the name 'Secretary of Environment, Health, and Natural Resources'. The register of deeds shall make a marginal entry on the Notice showing the date of cancellation and the book and page where the Secretary's statement is recorded, and the register shall sign the entry. If a marginal entry is impracticable because of the method used to record maps and plats, the register of deeds shall not be required to make a marginal entry.

~~(g) This section shall apply with respect to any facility, structure, or area where disposal of any hazardous substance or waste has occurred which~~
Recordation under this section is not required for any inactive hazardous substance or waste disposal site that is undergoing voluntary remedial action pursuant to this Part. Part unless the Secretary determines that either:

(1) A concentration of a hazardous substance or hazardous waste that poses a danger to public health or the environment will remain following implementation of the voluntary remedial action program.

(2) The voluntary remedial action program is not being implemented in a manner satisfactory to the Secretary and in compliance with the agreement between the Secretary and the owner, operator, or other responsible party.

(h) The Secretary may waive recordation under this section with respect to any residential real property that is contaminated solely because a hazardous substance or hazardous waste migrated to the property from other property by means of groundwater flow if disclosure of the contamination is required under Chapter 47E of the General Statutes. An owner of residential real property whose recordation requirement is waived by the Secretary under this subsection and who fails to disclose contamination as required by Chapter 47E of the General Statutes is subject to both the penalties and remedies under this Chapter applicable to a person who fails to comply with the recordation requirements of this section as though those requirements had not been waived and to the remedies available under Chapter 47E of the General Statutes."

Section 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Became law upon approval of the Governor at 11:40 a.m. on the 17th day of September, 1997.

RESOLUTIONS

S.J.R. 18

RESOLUTION 1

A JOINT RESOLUTION INFORMING HIS EXCELLENCY, GOVERNOR JAMES B. HUNT, JR., THAT THE GENERAL ASSEMBLY IS ORGANIZED AND READY TO PROCEED WITH PUBLIC BUSINESS AND INVITING THE GOVERNOR TO ADDRESS A JOINT SESSION OF THE SENATE AND HOUSE OF REPRESENTATIVES.

Be it resolved by the Senate, the House of Representatives concurring:

Section 1. A committee of five Senators appointed by the President Pro Tempore of the Senate and five Representatives appointed by the Speaker of the House of Representatives shall notify His Excellency, Governor James B. Hunt, Jr., that the General Assembly is organized and is ready to proceed with public business, and to invite him to address a joint session of the Senate and House of Representatives in the Hall of the House of Representatives at 12:00 noon, Tuesday, February 11, 1997.

Section 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 6th day of February, 1997.

H.J.R. 320

RESOLUTION 2

A JOINT RESOLUTION INVITING THE HONORABLE BURLEY B. MITCHELL, JR., CHIEF JUSTICE OF THE SUPREME COURT, TO ADDRESS A JOINT SESSION OF THE HOUSE OF REPRESENTATIVES AND THE SENATE.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Honorable Burley B. Mitchell, Jr., Chief Justice of the Supreme Court is invited to address a joint session of the House of Representatives and the Senate in the Hall of the House of Representatives at 2:00 p.m., Wednesday, March 5, 1997.

Section 2. The Secretary of State shall transmit a certified copy of this resolution to Burley B. Mitchell, Jr.

Section 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 4th day of March, 1997.

S.J.R. 334

RESOLUTION 3

A JOINT RESOLUTION INVITING THE HONORABLE WILLIAM J. CLINTON, PRESIDENT OF THE UNITED STATES, TO ADDRESS A JOINT SESSION OF THE HOUSE OF REPRESENTATIVES AND THE SENATE AND INVITING GOVERNOR JAMES B. HUNT, JR.

Be it resolved by the Senate, the House of Representatives concurring:

Section 1. The Honorable William J. Clinton, President of the United States, is invited to address a joint session of the House of Representatives and the Senate in the Hall of the House of Representatives at 11:00 a.m., Thursday, March 13, 1997.

Section 2. The Honorable James B. Hunt, Jr., Governor, is invited to the joint session.

Section 3. The Secretary of State shall transmit a certified copy of this resolution to the President of the United States and the Governor of the State of North Carolina.

Section 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 12th day of March, 1997.

H.J.R. 371

RESOLUTION 4

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JAMES ERWIN LAMBETH, JR., FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, James Erwin Lambeth, Jr. was born in Thomasville, North Carolina, on February 2, 1916, to James E. Lambeth and Helen McAulay Lambeth; and

Whereas, James Erwin Lambeth, Jr. graduated from Thomasville High School in 1933, Duke University in 1937, and the Harvard Business School in 1938; and

Whereas, James Erwin Lambeth, Jr. became a corporate executive, serving as President and Chairman of the Board of Lambeth Limited, and as Chairman of the Board and Secretary/Treasurer of Erwin-Lambeth, Inc.; and

Whereas, James Erwin Lambeth, Jr. achieved success and recognition in business through his achievements as a member on numerous boards including the North Carolina National Bank (1953-1980), Piedmont Associated Industries (1963-1964), Thomasville Community Foundation (1963-1964), College Foundation, (1971-1976), the Furniture Library Association (1973), and the Thomasville Home Savings and Loan, upon which he served for 50 years; and

Whereas, James Erwin Lambeth, Jr. also served as a member of the Governor's Commission on the Status of Women from 1964 to 1966 and as a member of the North Carolina Wildlife Commission from 1979 to 1981; and

Whereas, James Erwin Lambeth, Jr. worked unselfishly for the betterment of his community as a member and leader of numerous civic and fraternal organizations including the Thomasville Chamber of Commerce, the High Point Executives Club, the Thomasville Chapter of Masonic Lodge, the Thomasville Rotary Club, the Davidson County Historical Society, the Thomasville Historical Society, and the Thomasville United Fund; and

Whereas, James Erwin Lambeth, Jr. was awarded the Rotary Foundation Citation for Meritorious Service in 1974, and the Silver Beaver Award by the Boy Scouts of America in 1961; and

Whereas, James Erwin Lambeth, Jr. showed outstanding devotion to public service, serving as a member of the Thomasville City Council from 1963 to 1967, during which time he served as Mayor Pro Tempore, and serving with honor and distinction in the North Carolina House of Representatives during the 1977, 1979, and 1983 Sessions of the General Assembly; and

Whereas, James Erwin Lambeth, Jr. was an active member of the Thomasville United Methodist Church, serving as a member of the Board of Stewards, as President of the R.L. Pope Bible Class from 1963 to 1964, and as Chair of the Stewardship and Finance Committee from 1964 to 1965; and

Whereas, James Erwin Lambeth, Jr. died on August 30, 1995, and leaves to mourn his wife, Katharine Lambeth; his sons, James E. Lambeth, III, Richard C. Lambeth, and William R. Lambeth; his daughter, Mary Katharine Lambeth Cullens; his sister, Molly Lambeth Johnson; and his brother, Frank Simmons Lambeth;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly honors the memory of James Erwin Lambeth, Jr. and extends the gratitude and appreciation of this State and its citizens for his life and devoted service to this State and his community.

Section 2. The General Assembly expresses its deepest sympathy to the family of James Erwin Lambeth, Jr. for the loss of this distinguished citizen.

Section 3. The Secretary of State shall transmit a certified copy of this resolution to the family of James Erwin Lambeth, Jr.

Section 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 25th day of March, 1997.

H.J.R. 398

RESOLUTION 5

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF
BASIL DUKE BARR, FORMER MEMBER OF THE GENERAL
ASSEMBLY.

Whereas, Basil Duke Barr was born on November 4, 1894, in Jefferson, North Carolina, to Felix Barr and Blanche Duke Barr; and

Whereas, Basil Duke Barr graduated from Jefferson High School in 1917, and North Carolina State University in 1921, where he received a degree in engineering; and

Whereas, Basil Duke Barr married Mabel Phillips in 1922, and from their union, three children were born; and

Whereas, Basil Duke Barr proudly served his county as a member of the United States Army, serving in both World Wars; and

Whereas, Basil Duke Barr was a skilled and well-known engineer, spending most of his professional career in Alaska; and

Whereas, while in Alaska, Basil Duke Barr was an avid sportsman and big game hunter and wrote several books on big game hunting; and

Whereas, Basil Duke Barr retired as a Lt. Colonel from the Corps of Engineers in 1954; and

Whereas, upon his return to North Carolina, Basil Duke Barr opened a custom furniture shop in Jefferson, which became one of the most well-known furniture shops in North Carolina; and

Whereas, Basil Duke Barr was a skilled cabinetmaker much in demand and his furniture was used in many fine homes throughout the South; and

Whereas, Basil Duke Barr served with honor and distinction in the House of Representatives during the 1965, 1967, and 1969 Sessions of the General Assembly; and

Whereas, Basil Duke Barr worked unselfishly for the betterment of his community as a member of many civic and fraternal organizations including the Masonic Order and the American Legion; and

Whereas, Basil Duke Barr constructed the first hydroelectric dam on the New River in Ashe County and designed and built the first stone school in Ashe County; and

Whereas, Basil Duke Barr was active in the Baptist Church; and

Whereas, Basil Duke Barr died on February 3, 1997, and leaves children, other relatives, and friends to mourn; and

Whereas, Basil Duke Barr will be remembered for his keen mind and gentle personality that reflected mountain qualities and mountain intellect;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly expresses its deep appreciation for the life of Basil Duke Barr and for the great service he rendered to the Nation, the State of North Carolina, and his community.

Section 2. The General Assembly extends its deepest sympathy to the family of Basil Duke Barr for the loss of its distinguished member.

Section 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Basil Duke Barr.

Section 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 8th day of April, 1997.

H.J.R. 683

RESOLUTION 6

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF
DR. JOY JOSEPH JOHNSON, FORMER MEMBER OF THE
GENERAL ASSEMBLY.

Whereas, Dr. Joy Joseph Johnson was born in Laurel Hill on November 2, 1921, to William Joseph Johnson and Edith Buchanan Johnson; and

Whereas, Dr. Joy Joseph Johnson attended the Scotland County Public Schools, graduated from the Laurinburg Institute in 1941, and Shaw University in 1945, and received a Doctor of Divinity degree from Friendship College, South Carolina, in 1965; and

Whereas, Dr. Joy Joseph Johnson was a minister and served as pastor of the First Baptist Church in Fairmont; and

Whereas, Dr. Joy Joseph Johnson rendered distinguished service to various religious organizations, serving as a moderator of the Lumber River Baptist Association, as President of the Southern Region of the National Progressive Convention of the United States of America in 1968, and as President of the North Carolina General Baptist Convention from 1974 to 1978; and

Whereas, Dr. Joy Joseph Johnson made significant contributions as a Mason and as a member of the Alpha Phi Alpha Fraternity, the United Order of Salem, and the Independent Order of St. Luke; and

Whereas, Dr. Joy Joseph Johnson was a man of integrity who was genuinely interested in the people of his community, serving as the first African-American mayor and town commissioner of Fairmont, as Chair of the Fairmont Good Neighbor Council, as President of Lumber River Housing Development, Inc., and as a member of the Organized People's Investment Company; and

Whereas, Dr. Joy Joseph Johnson served as Vice-Chair of the Robeson County Democratic Executive Committee and as State Secretary of the North Carolina Branches of the NAACP; and

Whereas, Dr. Joy Joseph Johnson served with honor and distinction as a member of the North Carolina House of Representatives from 1971 to 1978; and

Whereas, Dr. Joy Joseph Johnson left the General Assembly upon his appointment to the North Carolina Parole Commission on which he served from 1978 to 1985; and

Whereas, Dr. Joy Joseph Johnson received numerous awards and recognitions including an honorary doctorate degree from Shaw University in 1972; and

Whereas, Dr. Joy Joseph Johnson was an active and devoted member of the Missionary Baptist Church; and

Whereas, Dr. Joy Joseph Johnson dedicated his life to the enrichment of many other lives, as a minister, civic leader, public servant, and devoted family member; and

Whereas, Dr. Joy Joseph Johnson died on December 30, 1996; and

Whereas, Dr. Joy Joseph Johnson is survived by his wife, Omega Foster Johnson; his daughter, Deborah Johnson Killens; his grandchildren, Joy Alexandria Killens and Jenee' Johnson Killens; and other close relatives and friends;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly honors the memory of Dr. Joy Joseph Johnson and expresses the deep gratitude and appreciation of this State and its citizens for his life and service to North Carolina.

Section 2. The General Assembly extends its deepest sympathy to the family and friends of Dr. Joy Joseph Johnson.

Section 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Dr. Joy Joseph Johnson.

Section 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 22nd day of April, 1997.

S.J.R. 340

RESOLUTION 7

A JOINT RESOLUTION INVITING THE REVEREND BILLY GRAHAM TO ADDRESS A JOINT SESSION OF THE HOUSE OF REPRESENTATIVES AND THE SENATE AND INVITING GOVERNOR JAMES B. HUNT, JR.

Whereas, Billy Graham has distinguished himself through his contributions to morality, racial equality, family, philanthropy, and religion; and

Whereas, perhaps America's most respected and admired evangelical leader of the past half century, Billy Graham has reached millions of people through crusades and television; and

Whereas, Billy Graham has exemplified the highest ideals of teaching, counseling, ethics, charity, faith, and family; and

Whereas, Billy Graham's daily newspaper column and numerous books have provided spiritual counseling and personal enrichment to millions of people; and

Whereas, Billy Graham and Ruth Graham, his wife of 53 years, have been the driving force to create the Ruth and Billy Graham Children's Health Center at Memorial Mission Hospital in Asheville, North Carolina, whose vision it is to improve the health and well-being of children and to become a new resource for ending the pain and suffering of children; and

Whereas, Billy Graham has received numerous awards and honorary degrees including the Congressional Gold Medal in 1996, the North Carolina Award for Public Service in 1986, the Presidential Medal of Freedom in 1983, the Sylvanus Thayer Award from the United States Military Academy Association of Graduates at West Point in 1972, the International Brotherhood Award from the National Conference of Christians and Jews in 1971, and the Gold Award of the George Washington Carver Memorial Institute in 1964; and

Whereas, Billy Graham has participated in eight presidential inaugurations from the inauguration of President Lyndon B. Johnson in 1965 to the inauguration of President William J. Clinton in 1997;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The Reverend Billy Graham is invited to address a joint session of the House of Representatives and the Senate in the Hall of the House of Representatives at 6:00 p.m., Monday, May 5, 1997.

Section 2. The Honorable James B. Hunt, Jr., Governor, is invited to the joint session.

Section 3. The Secretary of State shall transmit a certified copy of this resolution to the Reverend Billy Graham and the Governor of the State of North Carolina.

Section 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 1st day of May, 1997.

S.J.R. 211

RESOLUTION 8

A JOINT RESOLUTION COMMEMORATING THE MEMORY OF RELIGIOUS LEADERS IN THE STATE OF NORTH CAROLINA AND NAMING BILLY GRAHAM AS WORLD EVANGELIST.

Whereas, Article I, Section 13, of the Constitution of North Carolina speaks to religious liberty in the State of North Carolina and the right to worship Almighty God; and

Whereas, it is right and proper to recognize and commemorate the memory of all religious leaders who have led in the pursuit and practice of individual worship and thereby strengthening the moral fiber of this State; and

Whereas, Billy Graham was born William Franklin Graham on November 7, 1918, in Charlotte, North Carolina, to William Franklin Graham and Morrow Coffey Graham; and

Whereas, Billy Graham graduated from the Florida Bible Institute, now Trinity College, in 1940, and Wheaton College in 1943; and

Whereas, Billy Graham married Wheaton College classmate, Ruth McCue Bell in 1943, and from their union five children were born: Virginia Leftwich, Anne Morrow, Ruth Bell, William Franklin, and Nelson Edman; and

Whereas, from 1943 to 1945, Billy Graham served as pastor of the First Baptist Church in Western Springs, Illinois, and later joined Youth for Christ International, where he ministered to young people and service personnel from 1945 to 1950; and

Whereas, after World War II, Billy Graham began to preach throughout the United States and Europe, but gained international prominence as an evangelist through a series of crusades that began in 1949; and

Whereas, Billy Graham founded the Billy Graham Evangelistic Association in 1950, which launched his weekly radio program "Hour of Decision"; and

Whereas, Billy Graham has received numerous awards and honorary degrees including the Congressional Gold Medal in 1996, the North Carolina Award for Public Service in 1986, the Presidential Medal of Freedom in 1983, the Sylvanus Thayer Award from the United States Military Academy Association of Graduates at West Point in 1972, the International Brotherhood Award from the National Conference of Christians and Jews in 1971, and the Gold Award of the George Washington Carver Memorial Institute in 1964; and

Whereas, Billy Graham has written 17 books, all of which have become best sellers; and

Whereas, Billy Graham has participated in eight presidential inaugurations from the inauguration of President Lyndon B. Johnson through the inauguration of President Bill Clinton in 1997; and

Whereas, Billy Graham's messages have reached over 210 million people in over 185 countries through his crusades, television appearances, and radio programs, making him the most well-known preacher; and

Whereas, over the course of many years, people from all walks of life have sought Billy Graham's counsel; and

Whereas, Billy Graham has distinguished himself as a man of great faith, showing a genuine interest in reaching out to those seeking spiritual guidance; and

Whereas, Billy Graham is admired and respected by millions of people over all the world; and

Whereas, naming Billy Graham as World Evangelist would be a fitting tribute to one of North Carolina's most beloved citizens;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly commemorates the memory of religious leaders in the State of North Carolina and names Billy Graham World Evangelist.

Section 2. The Secretary of State shall transmit a certified copy of this resolution to Billy Graham.

Section 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 1st day of May, 1997.

S.J.R. 1072

RESOLUTION 9

A JOINT RESOLUTION INVITING THE HONORABLE JESSE A. HELMS, UNITED STATES SENATOR, TO ADDRESS A JOINT SESSION OF THE HOUSE OF REPRESENTATIVES AND THE SENATE AND INVITING GOVERNOR JAMES B. HUNT, JR.

Now, therefore be it resolved by the Senate, the House of Representatives concurring:

Section 1. The Honorable Jesse A. Helms, is invited to address a joint session of the House of Representatives and the Senate in the Hall of the House of Representatives at 11:00 a.m., Tuesday, May 27, 1997.

Section 2. The Honorable James B. Hunt, Jr., Governor, is invited to the joint session.

Section 3. The Secretary of State shall transmit a certified copy of this resolution to the Senator and the Governor of the State of North Carolina.

Section 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 5th day of May, 1997.

H.J.R. 1152

RESOLUTION 10

A JOINT RESOLUTION SETTING THE DATE FOR THE HOUSE OF REPRESENTATIVES AND SENATE TO ELECT MEMBERS TO THE STATE BOARD OF COMMUNITY COLLEGES.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. Pursuant to G.S. 115D-2.1(b)(4)f., the Senate and the House of Representatives shall elect members to the State Board of Community Colleges during the regular sessions of the two chambers held on Wednesday, May 21, 1997. At that time the House of Representatives shall elect two members to the State Board each for a term of six years beginning July 1, 1997; the Senate shall elect two members to the State Board each for a term of six years beginning July 1, 1997.

Section 2. Each chamber shall follow the procedure set out in G.S. 115D-2.1 for the nomination and election of members of the State Board.

Section 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 19th day of May, 1997.

H.J.R. 1054

RESOLUTION 11

A JOINT RESOLUTION PROVIDING FOR A JOINT SESSION OF THE GENERAL ASSEMBLY TO ACT ON A JOINT RESOLUTION PROVIDING FOR CONFIRMATION OF THE APPOINTMENTS BY THE GOVERNOR OF NEW MEMBERS TO THE STATE BOARD OF EDUCATION.

Whereas, under the provisions of the Constitution of North Carolina and G.S. 115C-10, appointments by the Governor to membership on the State Board of Education are subject to confirmation by the General Assembly in joint session; and

Whereas, vacancies have occurred on the State Board of Education; and
Whereas, the Governor has transmitted to the presiding officers of the Senate and the House of Representatives the names of his appointees to fill the terms of membership on the State Board of Education which expire March 31, 2005;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. Upon the call of the Speaker of the House of Representatives and the President Pro Tempore of the Senate, the General Assembly shall meet in joint session to act on a joint resolution providing for confirmation of the appointments by the Governor of new members to the State Board of Education.

Section 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 19th day of May, 1997.

H.J.R. 664

RESOLUTION 12

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF RUSSELL ATKINSON SWINDELL, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Russell Atkinson Swindell was born in Swan Quarter, North Carolina, on May 14, 1916, to John Harold Swindell, Sr. and Mary Atkinson Swindell; and

Whereas, Russell Atkinson Swindell graduated from Swan Quarter High School in 1935, and from Louisburg College in 1938; and

Whereas, Russell Atkinson Swindell proudly served his country as a member of the United States Army; and

Whereas, Russell Atkinson Swindell found a rewarding vocation in farming and was active in farming issues, serving as President of the Hyde County USDA and of the Hyde County Farm Bureau; and

Whereas, Russell Atkinson Swindell had great effect in his community, serving as a Mason, a charter member and president of the Hyde County Lions Club, as chaplain of the American Legion, and as Chair of the Hyde County Polio Foundation; and

Whereas, Russell Atkinson Swindell served with honor and distinction as a member of the General Assembly in the House of Representatives during the 1951, 1953, and 1955 Sessions; and

Whereas, after his service with the General Assembly, Russell Atkinson Swindell worked for the Department of Education, where he helped set up the State's community college system; and

Whereas, later, Russell Atkinson Swindell served as executive director of the North Carolina Railroad Association; and

Whereas, Russell Atkinson Swindell became a successful lobbyist, working on behalf of numerous trade associations and organizations and serving as a mentor to other lobbyists; and

Whereas, in 1982, Russell Atkinson Swindell was named Outstanding Senior Citizen of the Year by the Town of Cary; and

Whereas, Russell Atkinson Swindell was active in the First United Methodist Church in Cary; and

Whereas, Russell Atkinson Swindell died on March 3, 1997, after a lifetime of unselfish and distinguished service to his community and State, and leaves to mourn his wife, Martha Easterling Swindell; his daughters,

Sue Martin and Mary-Anne Brannon; his son, A. B. Swindell; eight grandchildren; two great-grandchildren; and two godchildren;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly expresses its deep appreciation for the life and the accomplishments of Russell Atkinson Swindell and for the great service he rendered to the nation, the State of North Carolina, and his community.

Section 2. The General Assembly extends its deepest sympathy to the family of Russell Atkinson Swindell for the loss of its distinguished member.

Section 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Russell Atkinson Swindell.

Section 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 20th day of May, 1997.

S.J.R. 164

RESOLUTION 13

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF WESLEY DAVIS WEBSTER, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Wesley Davis Webster was born in Madison, North Carolina, on September 15, 1923, to Henry Samuel Webster and Mabel Gray Davis Webster; and

Whereas, Wesley Davis Webster attended the Madison City Schools; and

Whereas, Wesley Davis Webster served proudly in the United States Army during World War II in the European Theater and was awarded a Purple Heart; and

Whereas, Wesley Davis Webster later served as Commander of both the Madison Veterans of Foreign Wars and the American Legion; and

Whereas, Wesley Davis Webster took an active and significant part in the business affairs of his community serving as vice-president of H. Grogan Hardware, Inc., vice-president and director of Peoples Bank of North Carolina, trustee of Rockingham Community College, president of the Madison Merchants Association, and member of the Board of Directors of First Citizens Bank in Madison; and

Whereas, Wesley Davis Webster served on the Rockingham County Board of County Commissioners from 1958 to 1970, serving as Chair from 1964 to 1970, and also serving as a member of the North Carolina Association of County Commissioners for two years; and

Whereas, Wesley Davis Webster served the people of North Carolina with distinction as a member of the North Carolina House of Representatives in the 1971 Session of the General Assembly and as a member of the Senate in the 1973, 1975, and 1977 Sessions; and

Whereas, Wesley Davis Webster continued to serve the State after leaving the General Assembly, being appointed to the post of Deputy

Secretary of the Department of Transportation, where he served until his retirement in 1989; and

Whereas, Wesley Davis Webster died on September 10, 1995, leaving his wife, Sandra Webster, a daughter, Connie Trempus, a son, Wesley Dodd Webster, a stepdaughter, Leigh Anne Jones, a stepson, Robert Jones, and several other relatives and friends to mourn his loss; and

Whereas, Wesley Davis Webster was a respected statesman, a devoted family man, and an individual highly dedicated to the advancement of his community;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. In the death of Wesley Davis Webster, the State of North Carolina has lost a dedicated and valuable citizen. He left the State a better place by reason of his service, and the General Assembly joins with his widow and children in mourning his passing.

Section 2. The Secretary of State shall transmit a certified copy of this resolution to the family of Wesley Davis Webster.

Section 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 27th day of May, 1997.

S.J.R. 871

RESOLUTION 14

A JOINT RESOLUTION COMMEMORATING THE ONE HUNDRED FIFTIETH ANNIVERSARY OF THE CITY OF GOLDSBORO AND HONORING THE MEMORY OF MAJOR MATTHEW TILGHMAN GOLDSBOROUGH.

Whereas, the City of Goldsboro was granted a charter by the State of North Carolina on January 18, 1847; and

Whereas, the year 1997 marks the Sesquicentennial Anniversary of the incorporation of the City of Goldsboro; and

Whereas, the City of Goldsboro is recognized as being an important and significant entity contributing to the outstanding character and reputation that is enjoyed by the State of North Carolina; and

Whereas, during its 150 years as a vital member of the North Carolina community, Goldsboro has extended a warm and hospitable hand to all who have entered its boundaries, exemplifying the characteristics that define our fine State; and

Whereas, the City of Goldsboro has been represented by men and women in all wars sanctioned by the United States, to fight for the principles of democracy, freedom, and justice; and

Whereas, the City of Goldsboro possesses a rich and valuable history; and

Whereas, at this time when the City of Goldsboro is observing its Sesquicentennial Anniversary, it is only fitting to honor the memory of Major Matthew Tilghman Goldsborough, a civil engineer who was in charge

of the survey and the building of the Wilmington and Weldon Railroad, for whom the city is named;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly observes the Sesquicentennial Anniversary of the City of Goldsboro and honors the memory of Major Matthew Tilghman Goldsborough.

Section 2. The Secretary of State shall transmit a certified copy of this resolution to the Mayor of the City of Goldsboro.

Section 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 29th day of May, 1997.

H.J.R. 1227

RESOLUTION 15

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF GORDON HICKS GREENWOOD, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Gordon Hicks Greenwood was born in Black Mountain, North Carolina, on July 3, 1909, to James Hicks Greenwood and Louella Ray Greenwood; and

Whereas, Gordon Hicks Greenwood was a member of the first graduating class of Biltmore College, which later became the University of North Carolina at Asheville, graduating on May 30, 1930; and

Whereas, Gordon Hicks Greenwood attended North Carolina State University, where he played football for one year; and

Whereas, Gordon Hicks Greenwood received a bachelor of arts degree in journalism from the University of Illinois in 1941, and continued his education at the University of London in 1945; and

Whereas, Gordon Hicks Greenwood married Garnet Elizabeth Carder on March 8, 1941; and

Whereas, Gordon Hicks Greenwood served in the United States Army from 1943 through 1945 in the European Theater of Operations as a psychologist in an army hospital's psychiatric unit; and

Whereas, in 1946, Gordon Hicks Greenwood and his wife, Garnet, bought and published the Black Mountain News, which he continued to operate until 1967; and

Whereas, Gordon Hicks Greenwood served as director of admissions and assistant to the President at Montreat College in Buncombe County from 1973 to 1976; and

Whereas, Gordon Hicks Greenwood also served as an assistant professor of journalism at Boston University and as the manager of the New England Press Association; and

Whereas, Gordon Hicks Greenwood rendered distinguished service to the State of North Carolina as a member of the North Carolina House of Representatives, serving from 1959 through 1966 and from 1972 through 1992; and

Whereas, the State's community college system owes tremendous gratitude to Gordon Hicks Greenwood who in 1963 introduced a bill that resulted in the creation of the State's community college system; and

Whereas, Gordon Hicks Greenwood was instrumental in establishing a State-owned cemetery for veterans in the Town of Black Mountain; and

Whereas, Gordon Hicks Greenwood's other political involvement included service on the Black Mountain Town Board and the Buncombe County Board of County Commissioners, of which he also served as chair; and

Whereas, Gordon Hicks Greenwood contributed to his community through his service on numerous civic, business, and veterans organizations, including the Black Mountain Lions Club, the Chamber of Commerce, and the American Legion; and

Whereas, Gordon Hicks Greenwood was the original organizer of the Western North Carolina Development Association and served on the Board of Directors of the Asheville-Buncombe Technical College and of the University of North Carolina at Asheville; and

Whereas, Gordon Hicks Greenwood was an active member of the Black Mountain United Methodist Church, serving on the Official Board; and

Whereas, Gordon Hicks Greenwood received numerous awards and recognitions, including the North Carolina Commissioner of the Year in 1971, and the Outstanding Alumnus from the University of North Carolina at Asheville in 1981; and

Whereas, Gordon Hicks Greenwood died on February 16, 1997, at the age of 87, leaving two sons, G. Gordon Greenwood and Rick Greenwood, and three grandchildren; and

Whereas, Gordon Hicks Greenwood was a respected statesman, a devoted family man, and an individual highly dedicated to the advancement of his community; and

Whereas, the General Assembly, in warm memory and admiration, wishes to recognize the contributions of Gordon Hicks Greenwood to the well-being and betterment of Buncombe County, Western North Carolina, and the entire State;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly honors the memory of Gordon Hicks Greenwood and expresses the deep gratitude and appreciation of this State and its citizens for his life and service to North Carolina.

Section 2. The General Assembly extends its deepest sympathy to the family of Gordon Hicks Greenwood for the loss of its distinguished member.

Section 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Gordon Hicks Greenwood.

Section 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 10th day of June, 1997.

H.J.R. 1235

RESOLUTION 16

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF
EDGAR M. "LONESOME ED" MCKNIGHT, FORMER MEMBER OF
THE GENERAL ASSEMBLY.

Whereas, Edgar M. McKnight was born on June 21, 1908, in Dallas, North Carolina, to Samuel W. McKnight and Bessie White McKnight; and

Whereas, "Lonesome Ed" McKnight served his country as a sergeant in the United States Marine Corps from 1924 to 1932; and

Whereas, Edgar M. McKnight was married to the former Dorothy Essex on November 26, 1952, and the father of four children; and

Whereas, Edgar M. McKnight was a successful businessman in Winston-Salem, where he owned and served as President of his company, Edmac, Inc., a welding supply and air compressor business; and

Whereas, Edgar M. McKnight was active in his community serving as a member of the Winston-Salem Twin City Club, the Elks Club, and the Clemmons Civic Club; and

Whereas, Edgar M. McKnight was a member of the Calvary Moravian Church in Winston-Salem, where he held numerous offices and served in various capacities; and

Whereas, Edgar M. McKnight ran for a seat in the North Carolina House of Representatives from Forsyth County in 1964, and won the election becoming the first Republican elected countywide in Forsyth County in the twentieth century; and

Whereas, Edgar M. McKnight was labeled by the local newspaper, the Twin City Sentinel early in his term as "Lonesome Ed" because the other members of his local House delegation didn't tell him about the meeting times of the local caucus; and

Whereas, Edgar M. McKnight wore his new name as a badge of honor and campaigned during the next election as "Lonesome Ed" putting the new nickname on the ballot; and

Whereas, "Lonesome Ed" McKnight was not lonesome after the 1966 election winning reelection while helping elect all of his fellow Republican candidates in Forsyth County to the State House and Senate; and

Whereas, "Lonesome Ed" McKnight won reelection to the State House again in 1968, and helped the Republicans capture all five House seats and both State Senate seats in Forsyth County for the first time ever; and

Whereas, "Lonesome Ed" McKnight won reelection to the State House again in 1970 and 1972; and

Whereas, on October 4, 1974, Governor James Holshouser appointed "Lonesome Ed" McKnight to fill a vacancy in the State Senate; and

Whereas, "Lonesome Ed" McKnight served with great distinction during his five terms in the North Carolina General Assembly helping to create a more open and deliberative atmosphere in the legislative body; and

Whereas, "Lonesome Ed" McKnight was a strong supporter of improved education, an expanded parks system, better highways and transportation systems, and better environmental controls; and

Whereas, the Winston-Salem Journal and Twin City Sentinel both recognized "Lonesome Ed" McKnight's great political talents and abilities and continually endorsed him in election after election; and

Whereas, "Lonesome Ed" McKnight eagerly and willingly mentored many other young office seekers and officeholders throughout his entire political career and added immeasurably to their chances for success; and

Whereas, "Lonesome Ed" McKnight died on November 4, 1994, just a few days before he could have seen his lifelong dream of seeing a Republican Speaker of the North Carolina House of Representatives; and

Whereas, "Lonesome Ed" McKnight was preceded in death by a daughter, Doris M. Matthews, and is survived by his wife, Dorothy E. McKnight; his sons, Don B. McKnight and Keith J. McKnight; his daughter, Gayle M. Dion; and five grandchildren and three great-grandchildren; and

Whereas, with the death of "Lonesome Ed" McKnight, the State of North Carolina has lost a most able, outstanding, devoted, and loyal citizen;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly honors the life and memory of Edgar M. "Lonesome Ed" McKnight and expresses the appreciation of this State for the service he rendered.

Section 2. The General Assembly extends its deepest sympathy to the family and friends of Edgar M. "Lonesome Ed" McKnight for their loss.

Section 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Edgar M. "Lonesome Ed" McKnight.

Section 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 12th day of June, 1997.

S.J.R. 1080

RESOLUTION 17

A JOINT RESOLUTION HONORING THE LIFE, SERVICE, AND MEMORY OF CHARLES DUNN.

Whereas, Charles Dunn's illustrious life of civic and political service began with his work as a top reporter in the old Senate and House chambers;

Whereas, Charles Dunn went on to assist former Governor Luther Hodges in writing his book, "Businessman in the Statehouse", serve as Administrative Aide to Congressman Horace Kornegay, and serve as Administrative/Special Assistant to Governor Dan K. Moore; and

Whereas, as Director of the North Carolina State Bureau of Investigation, Charles Dunn took a woefully understaffed and ill-equipped law enforcement agency and doubled its staff, raised education standards for agents, established the North Carolina Justice Academy, built a modern crime lab, hired the first female agent and the first African-American special agent, and became a key spokesman on many criminal justice issues; and

Whereas, during his service as Director of the North Carolina State Bureau of Investigation, Charles Dunn not only made the agency an exemplary law enforcement agency, he went on to participate in the implementation of the D.A.R.E. program in North Carolina, he became a forceful advocate for children's causes, he helped raise millions of dollars to build chapels at institutions for the retarded, and he taught junior high school-age boys in Sunday School; and

Whereas, Charles Dunn was a founding member of the University of North Carolina at Chapel Hill School of Social Work, where he gave generously of his time and resources, established a scholarship fund in honor of his wife, Martha, and literally never missed a board meeting; and

Whereas, while working as Executive Vice President of the North Carolina Textile Manufacturers Association, Charles Dunn made "Made in the USA" a household term, asked everyone to wear North Carolina- and USA-made clothes, and established the Charles and Martha Dunn Textile Scholarship; and

Whereas, Charles Dunn returned to the North Carolina State Bureau of Investigation, first as Deputy Director and then as Director, and continued to speak out on a variety of children's issues, one of which was Justice for Children; and

Whereas, in all of his public service, Charles Dunn set an example of integrity, honesty, and character and he always comported himself as a "gentleman's gentleman", a statesman, a Christian man, a man among men, and a friend; and

Whereas, although Charles Dunn was a public figure, he was driven by a private obsession--as the father of three children, he came to fear for the future of many of North Carolina's less-advantaged youngsters; and

Whereas, this profound concern for all of North Carolina's children led him to be a founding member of and recipient of the John F. Baggett award from the North Carolina Alliance for the Mentally Ill, Inc., to serve as Chairman of the Board of Directors of North Carolina Drug Abuse Resistance Education, to serve as a member of the board of directors of the United Way of North Carolina, to serve as President of Chapels for the North Carolina Centers for the Retarded, Inc., to serve as chairman of the Executive Committee of the Governor's Relations Committee, and to serve on the board of many other children's organizations including the Child Advocacy Council, the Methodist Home for Children, Wake County Opportunities, Inc., the Governor's Crime Commission, and the Governor's Interagency Advisory Committee on Alcohol and Drug Abuse; and

Whereas, Charles Dunn was always a spokesman for those who could not speak for themselves and a supporter of the weak; and

Whereas, after being stricken with leukemia, Charles Dunn did not give up--he fought a hard fight, he continued his work on behalf of children, and he wrote three novels and a number of beautiful poems; and

Whereas, Charles Dunn was a loving and devoted husband, father, and grandfather who, all-too-soon, left behind his wife, Martha; his daughter Sherrill Dunn Jones, her husband Sam, and their child and Charles Dunn's namesake, Charlie; his son Charles Jerome Dunn, III, "Jay", who graduated magna cum laude from the school of Design at North Carolina

State University in May; and his daughter Lelia Marie Dunn, "Lea" or "chicken" to the family, who works at the North Carolina Retail Merchants Association; and

Whereas, the General Assembly wishes to honor the life and memory of Charles Dunn and to recognize his many years of service to his beloved State and his fellow citizens;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly of North Carolina recognizes the many accomplishments of Charles Dunn and expresses the gratitude of North Carolina and its citizens for his life and service towards the betterment of all.

Section 2. The General Assembly of North Carolina offers its deepest sympathy to the family and friends of Charles Dunn for the loss of their loved one and friend.

Section 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Charles Dunn.

Section 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 17th day of June, 1997.

H.J.R. 1191

RESOLUTION 18

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF LOYD EDWARD AUMAN.

Whereas, Loyd Edward Auman, a lifelong resident of Cumberland County, was born on September 23, 1916; and

Whereas, Loyd Edward Auman received a bachelors degree in agricultural education from North Carolina State University in 1937, and a principal's certificate from the University of North Carolina at Chapel Hill in 1946; and

Whereas, Loyd Edward Auman began his 23-year career in public education as a teacher at 71st High School, where he taught from 1937 to 1942; and

Whereas, Loyd Edward Auman proudly served his country during World War II as a member of the United States Army Air Corps; and

Whereas, after his military service, Loyd Edward Auman returned to Cumberland County, where he served as principal of 71st High School from December of 1945 to June of 1968, and as principal of J.W. Coon Elementary School from July of 1968 to June of 1977; and

Whereas, Loyd Edward Auman's interest in education was evident by his memberships on the Cumberland County Library Board and the Cumberland County Unit of the North Carolina Association of Educators, of which he also served as president; and

Whereas, Loyd Edward Auman served as coach for both boys and girls sports from 1946 to 1948, and continued to coach girls basketball until 1955; and

Whereas, Loyd Edward Auman was a member of the 71st Athletic Council and initiated a fund drive to build an athletic field at 71st High School; and

Whereas, as a tribute to Loyd Edward Auman's service to education, an elementary school and the 71st High School Athletic Field bear his name; and

Whereas, Loyd Edward Auman greatly contributed to his community serving as a member and past president of the 71st Ruritan Club and as a member of the Board of Directors of the Lake Rim Fire Department; and

Whereas, Loyd Edward Auman was a devoted member of the MacPherson Presbyterian Church, serving as a deacon, elder, superintendent, and Sunday School teacher; and

Whereas, Loyd Edward Auman was a member of the Auman family basketball team from 1940 to 1941, which placed first runner-up in the National Family Basketball Tournament during that time, and was the leading softball home run hitter in Cumberland County from 1940 to 1941; and

Whereas, Loyd Edward Auman was a master gardener and upon his retirement from the public school system turned his hobby of growing muscadine grapes into a vocation, growing 40 varieties of grapes and raising over 400 vines; and

Whereas, today, the 71st Ruritan Club operates the vineyard; and

Whereas, with the death of Loyd Edward Auman on February 8, 1994, Cumberland County and the State of North Carolina lost a most able, outstanding, devoted, and loyal citizen; and

Whereas, Loyd Edward Auman is survived by his wife, Louise Lindsay Auman; his daughters, Mary Auman McLean and Elizabeth Auman Visser; and his son, Edward Auman;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly honors the life and memory of Loyd Edward Auman and expresses the appreciation of this State for the service he rendered.

Section 2. The General Assembly extends its deepest sympathy to the family and friends of Loyd Edward Auman for their loss.

Section 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Loyd Edward Auman.

Section 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 24th day of June, 1997.

S.J.R. 1078

RESOLUTION 19

A JOINT RESOLUTION PROVIDING FOR THE CONFIRMATION OF THE APPOINTMENT OF RICHARD CONDER MADE BY THE GOVERNOR TO MEMBERSHIP ON THE NORTH CAROLINA UTILITIES COMMISSION.

Whereas, under the provisions of G.S. 62-10, appointments made by the Governor to membership on the North Carolina Utilities Commission are subject to confirmation by the General Assembly by joint resolution; and

Whereas, the Governor has submitted to the presiding officers of the House of Representatives and the Senate, the names of his appointees to serve full terms on the North Carolina Utilities Commission;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The appointment of Richard Conder to the North Carolina Utilities Commission for a term beginning July 1, 1997, and expiring June 30, 2005, is confirmed.

Section 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 2nd day of July, 1997.

H.J.R. 1153

RESOLUTION 20

A JOINT RESOLUTION COMMEMORATING THE ONE HUNDRED FIFTIETH ANNIVERSARY OF THE TOWN OF FRANKLINVILLE AND HONORING THE MEMORY OF JESSE FRANKLIN.

Whereas, the antebellum cotton factories of the Town of Franklinville in Randolph County were among this State's pioneer textile mills, and have caused the Town to be called "the cradle of the Deep River textile industry"; and

Whereas, the Town of Franklinville is home to numerous structures that are included in a historic district listed on the National Register of Historic Places and were built before the Civil War which illustrate all aspects of life in a nineteenth century mill village; and

Whereas, the Town of Franklinville was created by the legislature in 1847, to incorporate the neighboring mill villages of Franklinville, founded in 1838, and Island Ford, founded in 1846; and

Whereas, the chartering of the Town of Franklinville by the legislature was the first incorporation of any North Carolina mill village; and

Whereas, the Town of Franklinville is named for Jesse Franklin, who served as Governor of North Carolina from 1820 to 1821; and

Whereas, the Town of Franklinville is one of the pivotal landmarks of the history of economic and industrial development in the State of North Carolina;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly honors the memory of Jesse Franklin and recognizes the Town of Franklinville as one of the original success stories of domestic manufacturing in the State. The General Assembly further honors the occasion of the Town's 150th Anniversary by designating the Town as the State of North Carolina's first Textile Heritage Village.

Section 2. The Secretary of State shall transmit a certified copy of this resolution to the Mayor of the Town of Franklinville.

Section 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 8th day of July, 1997.

H.J.R. 1237

RESOLUTION 21

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF MAZIE SPENCER WOODRUFF, A DEVOTED PUBLIC SERVANT AND COMMUNITY ACTIVIST.

Whereas, Mazie Spencer Woodruff was born on September 25, 1922, to the late William and Virgie Spencer; and

Whereas, Mazie Spencer Woodruff worked for and retired from the Hollady Surgical Supply Company; and

Whereas, in 1976, Mazie Spencer Woodruff became the first African-American to be elected to the Forsyth County Board of Commissioners, on which she served for 14 years; and

Whereas, Mazie Spencer Woodruff was one of the original members of the Winston-Salem Board of Directors of the Mechanics and Farmers Bank; and

Whereas, Mazie Spencer Woodruff was a devoted and active member of her community, serving on numerous boards and committees, including the Forsyth County Board of Social Services, Forsyth County Library Board of Trustees, Forsyth County Tourism Development Authority, Reynolds Health Center Advisory Committee, Forsyth County Cooperative Extension Advisory Council, 4-H Advisory Committee, Farm-City Committee, and Northwest Piedmont Council of Governments, and Cherry Hill Community Club; and

Whereas, Mazie Spencer Woodruff was a member of the Board of Directors of the Red Cross, the Goodwill Industries, and the United Way; and

Whereas, Mazie Spencer Woodruff served on the Governor's Council on the Status of Women and the North Carolina Mental Health Study Commission; and

Whereas, Mazie Spencer Woodruff was a devoted volunteer for Meals-on-Wheels of Winston-Salem and was a member of the American Legion Post 220; and

Whereas, Mazie Spencer Woodruff received numerous honors and awards, including the Charles McLean Public Service Award, the NAACP Achievements Award, and was recognized as the Winston-Salem Chronicle Woman of the Year in 1988, and as the Outstanding County Commissioner by the National Association of Black County Officials in 1996; and

Whereas, Mazie Spencer Woodruff was a deeply religious woman who was actively involved in the Union Chapel Baptist Church, serving as a Sunday School teacher and as a member of the Senior Usher Board; and

Whereas, on January 7, 1997, the State of North Carolina and Forsyth County lost one of its most beloved and productive citizens with the death of Mazie Spencer Woodruff; and

Whereas, Mazie Spencer Woodruff is survived by four sons, Melvin Woodruff, Charles Woodruff, Robert Woodruff, and Kenneth Woodruff; three daughters, Mildred Woodruff Strange, Sylvia Woodruff, and Arnetta Woodruff Hauser; 15 grandchildren; 13 great-grandchildren; and a sister, Mabel Price; and

Whereas, Mazie Spencer Woodruff was respected, admired, and loved by those who knew her and those who had the privilege of working with her;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly expresses its appreciation of Mazie Spencer Woodruff as a devoted public servant and citizen and extends its sympathy to her family and friends for their loss.

Section 2. The Secretary of State shall transmit a certified copy of this resolution to the family of Mazie Spencer Woodruff.

Section 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 9th day of July, 1997.

H.J.R. 1004

RESOLUTION 22

A JOINT RESOLUTION PROVIDING FOR CONFIRMATION OF THE APPOINTMENTS OF EVELYN B. MONROE, JOHN R. LAURITZEN, AND JAY M. ROBINSON TO MEMBERSHIP ON THE STATE BOARD OF EDUCATION.

Whereas, under the provisions of the Constitution of North Carolina and G.S. 115C-10, appointments by the Governor to membership on the State Board of Education are subject to confirmation by the General Assembly in joint session; and

Whereas, vacancies have occurred on the State Board of Education; and

Whereas, the Governor has transmitted to the presiding officers of the House of Representatives and the Senate, the names of his appointees to fill the terms of membership on the State Board of Education which expire March 31, 2005.

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The appointments of Evelyn B. Monroe, John R. Lauritzen, and Jay M. Robinson to membership on the State Board of Education for terms to expire March 31, 2005, are confirmed.

Section 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 16th day of July, 1997.

H.J.R. 1241

RESOLUTION 23

A JOINT RESOLUTION INVITING DR. JOHN HOPE FRANKLIN TO ADDRESS A JOINT SESSION OF THE HOUSE OF REPRESENTATIVES AND THE SENATE AND INVITING GOVERNOR JAMES B. HUNT, JR.

Whereas, John Hope Franklin is a world renowned historian, researcher, author, and speaker and has particularly distinguished himself in African-American history and race relations; and

Whereas, John Hope Franklin grew up in segregated Rentiesville, Oklahoma, and then in Tulsa, Oklahoma, graduated from Fisk University in 1935 and earned his masters degree from Harvard University in 1936 and doctorate in 1941; he became a North Carolinian in 1943; and

Whereas, John Hope Franklin has taught at Fisk University, St. Augustine's College, North Carolina College, Howard University, and Duke University and has served as chairman of the history departments at Brooklyn College and the University of Chicago; and

Whereas, John Hope Franklin was instrumental in numerous major historical events of the United States, including the fact that he conducted historical research for NAACP attorney Thurgood Marshall who wrote the legal brief in the 1954 Brown vs. Board of Education concerning public school desegregation; and

Whereas, for more than 50 years, John Hope Franklin has chronicled the history of the South and the roles of African-Americans in the nation's development; and

Whereas, in 1947 John Hope Franklin's definitive text on the African-American experience, From Slavery to Freedom: A History of Negro Americans, was published, and is now in its seventh edition and has been translated into French, German, Portuguese, Japanese, and Chinese; and

Whereas, John Hope Franklin has received numerous honors and awards, including the Presidential Medal of Freedom, the nation's highest civilian honor, on September 29, 1995, and has been awarded more than 105 honorary degrees from colleges and universities; and

Whereas, John Hope Franklin has been appointed by President William J. Clinton as chairman of a panel that will lead his national initiative on improving race relations; and

Whereas, John Hope Franklin is a resident of Durham where he tends his orchid collection in his backyard greenhouse and has developed a new variety of orchid;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. Dr. John Hope Franklin is invited to address a joint session of the House of Representatives and the Senate in the Hall of the House of Representatives at 11:00 a.m., Tuesday, July 22, 1997.

Section 2. The Honorable James B. Hunt, Jr., Governor, is invited to the joint session.

Section 3. The Secretary of State shall transmit a certified copy of this resolution to Dr. John Hope Franklin and the Governor of the State of North Carolina.

Section 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 21st day of July, 1997.

H.J.R. 1239

RESOLUTION 24

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF BARNEY PAUL WOODARD, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Barney Paul Woodard was born in Princeton, North Carolina, on November 23, 1914, to John Richard Woodard and Elizabeth Wall Woodard; and

Whereas, Barney Paul Woodard graduated from Princeton High School and the University of North Carolina at Chapel Hill, where he received a degree in pharmacy in 1938; and

Whereas, following graduation from college, Barney Paul Woodard returned to his native Princeton where he became a successful pharmacist and owner of Woodard Pharmacy; and

Whereas, Barney Paul Woodard was a trusted and valued pharmacist in Princeton for 54 years, giving freely of his time and attention to his customers and never turning away those who were sick; and

Whereas, Barney Paul Woodard served his community in many worthwhile capacities as a member of numerous organizations, including the Johnston County Mental Health Association; Johnston County Drug Club; Princeton Lions Club; Johnston County Shrine Club; Keep Johnston County Beautiful; and Princeton School Advisory Committee; and

Whereas, Barney Paul Woodard served his profession proudly as a member of the National Association of Retail Druggists and the North Carolina Pharmaceutical Association; and

Whereas, Barney Paul Woodard was dedicated to the Princeton United Methodist Church, serving as a trustee and a Sunday School teacher; and

Whereas, Barney Paul Woodard served with honor and distinction in the North Carolina House of Representatives for over 20 years, where he sponsored bills requiring lower cost for generic drugs and labeling on prescription drug bottles; and

Whereas, Barney Paul Woodard represented the people of Johnston County longer than any other member of the General Assembly; and

Whereas, Barney Paul Woodard received the Bowl of Hygea Award for Outstanding Community Service in Pharmacy in 1978 and was honored as Pharmacist of the Year by the North Carolina Pharmaceutical Association in 1988; and

Whereas, Barney Paul Woodard died on February 15, 1997, and left to mourn his wife of over 50 years, Annie Louise Sugg Woodard; and his children, Barney Paul Woodard, Jr., Dianne Woodard Taylor, Michael Sugg Woodard, and Joy Woodard MacLeod; and

Whereas, the General Assembly wishes to record its appreciation of the full and rewarding life and service of Barney Paul Woodard to his community and State and to express its sympathy to his family;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly honors the memory of Barney Paul Woodard and expresses the gratitude and appreciation of this State and its citizens for his life and devoted service to North Carolina.

Section 2. The General Assembly extends its deepest sympathy to the family of Barney Paul Woodard for the loss of such a distinguished family member.

Section 3. The Secretary of State shall transmit a certified copy of this resolution to the family and friends of Barney Paul Woodard.

Section 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 22nd day of July, 1997.

S.J.R. 707

RESOLUTION 25

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF ROYCE PHELPS "BO" THOMAS, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Royce Phelps Thomas, affectionately known as "Bo", was born in Avon Park, Florida, on January 3, 1932, to J.R. Thomas and Eunice Phelps Thomas; and

Whereas, Bo Thomas graduated from the Blue Ridge School for Boys in 1948, and attended Duke University from 1948 to 1951; and

Whereas, Bo Thomas was a veteran of the Korean War, serving in the United States Army from 1957 to 1960, and was inducted into the Officer's Candidate School Hall of Fame in Fort Benning, Georgia; and

Whereas, Bo Thomas bore a great love for Western North Carolina, spending most of his life in Hendersonville and contributing to the area's economy as vice-president and owner of Thomas Produce Company; and

Whereas, Bo Thomas showed an outstanding devotion to public service, serving with honor and distinction as a member of the North Carolina Senate from 1979 to 1988; and

Whereas, during his tenure in the General Assembly, Bo Thomas was tenacious in seeking to improve the welfare of his mountain community, to which he remained loyal; and

Whereas, Bo Thomas was a staunch supporter of the Blue Ridge Community College for which he helped to secure funds to plan the college's new Allied Health and Human Services Building and funds for the college's Killian Building, which houses a library, an audiovisual center, a student lounge, a cafeteria, and a bookstore and is used by both the students and the public; and

Whereas, Bo Thomas played a large role in securing funding to replace the condemned Henderson County Courthouse with a new structure; and

Whereas, having a great respect for the environment, Bo Thomas vigorously pushed for legislation restricting tall structures on mountain ridges, which became an act referred to as the "Ridge Law"; and

Whereas, Bo Thomas's love for public service was extended to his activities as a member of Veterans of Foreign Wars and the American Legion and as a member of the Hendersonville Lions Club; and

Whereas, Bo Thomas served on the National Board of Advisors for the renowned Brevard Music Center; and

Whereas, Bo Thomas was active in the Presbyterian Church, having served as a Deacon of the First Presbyterian Church in Hendersonville; and

Whereas, Bo Thomas was a man of the people, who said what he thought and believed that direct action was the most effective means to an end; and

Whereas, the State of North Carolina suffered a great loss when Bo Thomas died on January 14, 1997; and

Whereas, Bo Thomas is survived by his wife, Margaret Stonecipher Thomas; three children, James Royce Thomas, Mary Thomas Vieira, and Richard Latt Thomas; four grandchildren; and several other close relatives and friends; and

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly honors the memory of Bo Thomas and expresses the gratitude and appreciation of this State and its citizens for his life and service to North Carolina.

Section 2. The General Assembly extends its deepest sympathy to the family of Bo Thomas for the loss of a dear family member.

Section 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Royce Phelps "Bo" Thomas.

Section 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 23rd day of July, 1997.

H.J.R. 1240

RESOLUTION 26

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF DAVID E. REYNOLDS, FORMER EXECUTIVE DIRECTOR OF THE NORTH CAROLINA LEAGUE OF MUNICIPALITIES.

Whereas, David E. Reynolds received a bachelors degree in geology from Campbell University in 1970 and a masters degree in geology from the University of South Carolina in 1972 and developed an expertise in water resource management issues; and

Whereas, David E. Reynolds began his career at the North Carolina League of Municipalities in 1980 as Director of Intergovernmental Programs after service with the state of South Carolina and the Triangle J Council of Government; and

Whereas, from April 1980 to October 1986, David E. Reynolds provided assistance to municipalities concerning State and federal programs

and regulations, represented municipal interests before State and federal departments and agencies, and developed League policies and programs; and

Whereas, in October of 1986, David E. Reynolds became the Executive Director of the North Carolina League of Municipalities and was responsible for the overall management of the activities of the League, a nonpartisan federation of cities, towns, and villages; and

Whereas, during David E. Reynolds' tenure at the League, its membership increased from 472 to 510, and it greatly expanded its services to its member municipalities; and

Whereas, David E. Reynolds served as an effective and respected advocate for North Carolina's cities, towns, and villages for 16 years; and

Whereas, municipal officials and all with whom he worked respected and admired David E. Reynolds for his diligence, his integrity, his friendly manner and genuine concern for others, and his high level of commitment to excellence in local government, and a continued strong State-local government partnership; and

Whereas, Don Borut, Executive Director of the National League of Cities, recognized David E. Reynolds as "an enormously gifted person whose outlook, efforts, and achievements represent all the very best in public service"; and

Whereas, David E. Reynolds was gentle by nature, but persistent when necessary; and

Whereas, David E. Reynolds conducted himself at all times with dignity, grace, optimism, and integrity; and

Whereas, David E. Reynolds died on September 24, 1996; and

Whereas, David E. Reynolds was a loving and devoted husband and proud father and is survived by his wife, Emily Warren Reynolds, and a son, David Jason Reynolds, to whom he was a wonderful role model and friend; and

Whereas, David E. Reynolds will long be remembered for his excellent leadership skills, vision, compassion, and unwavering dedication to our municipalities and the League, which he used to help make North Carolina a better place to live;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly expresses its appreciation for the life and accomplishments of David E. Reynolds for the devoted and tireless service he rendered on behalf of North Carolina's cities, towns, and villages.

Section 2. The General Assembly extends its deepest sympathy to the family and friends of David E. Reynolds for the loss of a beloved husband, father, and friend.

Section 3. The Secretary of State shall transmit a certified copy of this resolution to the family of David E. Reynolds.

Section 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 29th day of July, 1997.

S.J.R. 1082

RESOLUTION 27

**A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF
THOMAS B. SAWYER, SR., FORMER MEMBER OF THE GENERAL
ASSEMBLY.**

Whereas, Thomas B. Sawyer, Sr. was born in Tapoco in Graham County, North Carolina, on April 9, 1918, to Pleas M. Sawyer and Edna Garland Sawyer; and

Whereas, Thomas B. Sawyer, Sr. graduated from Duke University in 1938 and received a law degree from Emory University in 1947; and

Whereas, Thomas B. Sawyer, Sr.'s long and distinguished career included practicing law, owning and serving as president of a realty company, teaching real estate, working for the North Carolina Department of Insurance, and serving as president of WSSB radio station in Durham; and

Whereas, Thomas B. Sawyer, Sr. rendered distinguished service to North Carolina as a member of the General Assembly; and

Whereas, Thomas B. Sawyer, Sr. represented Durham County in the Senate from 1950 to 1952, represented Guilford County in the House of Representatives from 1972 to 1978, and represented Guilford County in the Senate from 1995 to 1996; and

Whereas, Thomas B. Sawyer, Sr. sought to further serve the people of North Carolina by running for Governor in 1956, and the United States Senate in 1978; and

Whereas, Thomas B. Sawyer, Sr. proudly served his country during World War II as a member of the 36th Field Artillery Unit of the United States Army and for his distinguished service during this war, received several decorations; and

Whereas, after his tour of active duty, Thomas B. Sawyer, Sr. continued to serve the army in numerous capacities, including his service as an instructor at the Command and General Staff School at the Pentagon and Fort Leavenworth, Kansas; and

Whereas, Thomas B. Sawyer, Sr. was promoted to the rank of Lt. Colonel on March 26, 1960, while a member of the United States Army Reserves; and

Whereas, Thomas B. Sawyer, Sr. was a former Department Commander with the Disabled American Veterans, a former State Commander with Amvets, a member of the Reserve Officers' Association, and a member of the American Legion, Post 368; and

Whereas, Thomas B. Sawyer, Sr. was a deeply religious man, attended Duke Divinity School for one year, and was an active member of the Our Lady of Grace Roman Catholic Church of Greensboro; and

Whereas, Thomas B. Sawyer, Sr. died on March 19, 1996, and leaves to mourn him his wife, Dorothy Siler Sawyer; his daughters, Floy S. Blanton and Sharon S. Nelson; his sons, Pleas M. Sawyer, III, Joseph B. Sawyer, Thomas B. Sawyer, Jr., Wendell H. Sawyer, and Gregory W. Sawyer; 25 grandchildren; and two great-grandchildren; and

Whereas, in the untimely death of Thomas B. Sawyer, Sr., his family, the General Assembly, Guilford County, and the State of North Carolina lost a good friend and colleague and an admired and respected man;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly honors the life and memory of Thomas B. Sawyer, Sr. and expresses the deep gratitude and appreciation of this State and its citizens for his life and service to North Carolina.

Section 2. The General Assembly extends its deepest sympathy to the family and friends of Thomas B. Sawyer, Sr.

Section 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Thomas B. Sawyer, Sr.

Section 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 5th day of August, 1997.

S.J.R. 414

RESOLUTION 28

A JOINT RESOLUTION HONORING THE ACCOMPLISHMENTS OF COACH DEAN EDWARDS SMITH AND THE MEN'S BASKETBALL PROGRAM AT THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL.

Whereas, Dean Edwards Smith was a member of the 1952 Kansas University Jayhawks national championship basketball team and a disciple of Kansas Coach Phog Allen; and

Whereas, his loyalty to his alma mater, the University of Kansas, so impressed former head coach Frank McGuire that he offered Smith a job as an assistant coach, which Smith accepted, despite UNC's victory over Smith's beloved Jayhawks in the 1957 NCAA men's basketball championship game; and

Whereas, Coach Smith's love for the State of North Carolina and the University of North Carolina has continued to grow since his arrival in Chapel Hill in 1958; and

Whereas, Coach Smith and the UNC men's basketball program have constantly been the source of visionary innovation, perfecting such signature practices as the man-to-man trap defense, the team huddle before a free throw, the "tired" signal, the acknowledgment of a teammate's assist, and the "Four Corners" offense that proved so effective that the institution of the shot clock was the only way to combat it; and

Whereas, Coach Smith has established a tradition of excellence in the UNC men's basketball program during his 36 years as head coach, winning more conference games, more regular season titles, more ACC Tournament games, more ACC championships and more NCAA tournament games than any other coach, and has attained 11 Final Four appearances, 14 ACC titles, and two national championships so far; and

Whereas, Coach Smith, along with Bill Guthridge, John Thompson, with a nucleus of Tar Heels and players from around the country, guided

the United States to a gold medal in basketball in the 1976 Olympic Games; and

Whereas, Coach Smith's keen insight into the game and his ability to adapt to changes in the times, the rules, and the nature of the game is vividly demonstrated by his continuing successes in his fourth decade as a coach; and

Whereas, on March 15, 1997, Coach Smith became the "all-time winningest coach" in the history of NCAA Division I basketball, coaching the Tar Heels to their 877th victory under his leadership; and

Whereas, Coach Smith and the UNC men's basketball program have produced nearly 100 professional basketball players, 43 basketball coaches and teachers, and numerous entrepreneurs, professionals, ministers, and other leaders who contribute to their communities throughout the world; and

Whereas, Coach Smith and the UNC basketball program have consistently emphasized teamwork, discipline, education and character above athletic success, and have served as ambassadors for the State of North Carolina, training young people, from around the world in the principles of honesty, integrity, and respect; and

Whereas, Coach Smith has been revered by former players, team members, and members of the UNC basketball family as a man who seeks the best interest of his students above his own; and

Whereas, for 36 years, Coach Smith has taught his players that basketball is secondary to honor, has maintained a model athletic program that is untainted by scandal, has helped his players mature into responsible adults, and has emphasized the importance of education to a life plan; and

Whereas, Coach Smith's greatest accomplishments lie not in the number of his victories but in the number of his lettermen who have obtained university degrees; a total of 216 of his 222 lettermen have graduated, many with honors; and

Whereas, Coach Smith is a man of character and compassion who was an early advocate for a more equal society, and his commitment to the betterment of all is reflected in his many endeavors to promote education and achievement in all facets of life; and

Whereas, Coach Smith is known as the "Dean of Basketball," but those who are aware of his accomplishments consider him the "Dean of Gentlemen," exemplifying the very best North Carolina has to offer; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly recognizes the outstanding achievements of Coach Dean Edwards Smith and the men's basketball program at the University of North Carolina at Chapel Hill, expresses the appreciation and admiration of the people of the State of North Carolina to Dean Edwards Smith for his leadership, integrity, and unparalleled excellence, both on and off the basketball court, and acknowledges the invaluable contribution that the players, coaches, managers, and other members of the UNC basketball family have made to a better world, not only in North Carolina, but across the globe.

Section 2. The Secretary of State shall send certified copies of this resolution to Coach Dean Edwards Smith, the Athletic Director, and the Chancellor of the University of North Carolina at Chapel Hill, and the Chairman of the University of North Carolina at Chapel Hill Board of Trustees.

Section 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 6th day of August, 1997.

S.J.R. 1081

RESOLUTION 29

A JOINT RESOLUTION HONORING THE MEMORY OF JACKIE ROBINSON AND RECOGNIZING WALTER FENNER "BUCK" LEONARD ON THE FIFTIETH ANNIVERSARY OF JACKIE ROBINSON'S BREAKING THE COLOR BARRIER IN MAJOR LEAGUE BASEBALL.

Whereas, Walter Fenner "Buck" Leonard, one of baseball's most outstanding players, played baseball with Jackie Robinson, Willie Mays, Satchel Page, Josh Gibson, and Cool Papa Bell; and

Whereas, on the fiftieth anniversary of Jackie Robinson's breaking the color barrier in Major League Baseball, it is only fitting to honor Buck Leonard, one of baseball's greatest players and a native of North Carolina; and

Whereas, Buck Leonard was born on September 8, 1907, in Rocky Mount; and

Whereas, Buck Leonard began playing semiprofessional baseball in 1921, with the Rocky Mount Elks and the Rocky Mount Black Swans; and

Whereas, after losing his job due to the Depression, Buck Leonard decided to pursue full-time professional baseball; and

Whereas, from 1934 through 1950, Buck Leonard played first base for the Homestead Grays in the Negro League, where he amassed impressive records; and

Whereas, Buck Leonard compiled a career batting average of over .340 and an average of over .380 during Major League exhibition games; and

Whereas, for several seasons, Buck Leonard averaged 34 home runs per year; and

Whereas, from 1937 to 1945, Buck Leonard helped lead the Homestead Grays to nine consecutive Negro League Championships; and

Whereas, Buck Leonard was selected to play in the Negro League's East-West All Star Game 11 times, an All Star record; and

Whereas, Buck Leonard was always a fan favorite; and

Whereas, from 1951 through 1955, Buck Leonard played baseball in Mexico; and

Whereas, after his baseball career, Buck Leonard returned to Rocky Mount, where he worked as a truant officer with the Rocky Mount school system, operated his own real estate agency, and served as an officer with the Rocky Mount Leafs in the Class-A Carolina League; and

Whereas, Buck Leonard was inducted into the Baseball Hall of Fame in 1972, and is the oldest living member of the Baseball Hall of Fame; and

Whereas, on March 21, 1981, Buck Leonard was honored at the White House by President Reagan; and

Whereas, Buck Leonard continues to reside in Rocky Mount;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly honors the memory of Jackie Robinson and expresses its appreciation to Walter Fenner "Buck" Leonard for his outstanding contributions to the sport of baseball on the fiftieth anniversary of Jackie Robinson's integration of Major League Baseball.

Section 2. The Secretary of State shall transmit a certified copy of this resolution to Walter Fenner "Buck" Leonard.

Section 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 12th day of August, 1997.

H.J.R. 1236

RESOLUTION 30

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF CALVIN LEE KOONCE, JR.

Whereas, Calvin Lee Koonce, Jr. was born in Cumberland County, North Carolina on November 18, 1940, and was a native of the Town of Hope Mills; and

Whereas, Calvin Lee Koonce, Jr. graduated from Hope Mills High School in 1959 and attended Campbell College where he earned Junior College All-American Honors in 1961; and

Whereas, because of his outstanding baseball talent, Calvin Lee Koonce, Jr. was signed by the Chicago Cubs in 1961; and

Whereas, Calvin Lee Koonce, Jr. played the position of pitcher and won 10 games in his Rookie Season with the Cubs in 1962; and

Whereas, in 1967, Calvin Lee Koonce, Jr. joined the New York Mets and played on the 1969 Mets World Championship Team; and

Whereas, in 1971, his last year playing professional baseball, Calvin Lee Koonce, Jr. played for the Boston Red Sox; and

Whereas, after his professional career, Calvin Lee Koonce, Jr. returned to North Carolina where he coached baseball at Fayetteville Academy in 1974, South View High School from 1974 to 1979, Campbell University from 1979 to 1986, and Terry Sanford High School from 1989 to 1991; and

Whereas, Calvin Lee Koonce, Jr. served as general manager of the Fayetteville Generals from 1986 to 1988, and as a scout for the Texas Rangers from 1991 to 1992; and

Whereas, Calvin Lee Koonce, Jr. was inducted into the Campbell University Sports Hall of Fame in 1987; and

Whereas, Calvin Lee Koonce, Jr. was devoted to public service, having served as the Hope Mills Town Manager from 1992 to 1993, as an elected

member of the Hope Mills Board of Commissioners, and as Mayor-Pro Tempore; and

Whereas, Calvin Lee Koonce, Jr. was an active member of the Hope Mills Methodist Church, where he served on the Administrative Board; and

Whereas, Calvin Lee Koonce, Jr. died on October 18, 1993; and

Whereas, Calvin Lee Koonce, Jr. is survived by his wife, Peggy Koonce; a son, Chris Koonce; three daughters, Kelly Taylor, Kim Owen, and Kerry Gowan; three grandchildren, Garrett Gowan, John Calvin Owen, and Lynnsey Taylor; his mother, Mary Koonce; a sister, Marilyn Koonce; and two brothers, Charles Koonce and Don Koonce;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly expresses its high regard for the life and service of Calvin Lee Koonce, Jr. and mourns the loss of this distinguished citizen.

Section 2. The Secretary of State shall transmit a certified copy of this resolution to the family of Calvin Lee Koonce, Jr.

Section 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 12th day of August, 1997.

S.J.R. 1087

RESOLUTION 31

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF CHARLES KURALT.

Whereas, Charles Bishop Kuralt was born in Wilmington, North Carolina, on September 10, 1934, to Wallace Hamilton Kuralt and Ina Bishop Kuralt; and

Whereas, Charles Kuralt spent his childhood years in the City of Charlotte where his mother was a schoolteacher and his father, a social worker, served for 28 years as director of Mecklenburg County's public welfare; and

Whereas, Charles Kuralt excelled as a student at the University of North Carolina at Chapel Hill, serving as editor of The Daily Tar Heel and graduating with a bachelors degree in 1955; and

Whereas, following graduation from college, Charles Kuralt worked for the Charlotte News and in 1956, received the Ernie Pyle Memorial Award for his well-crafted and stylish writing; and

Whereas, in 1957, Charles Kuralt joined Columbia Broadcasting System (CBS) as a writer and in 1959, at the age of 24, became the youngest person to be named a news correspondent at CBS; and

Whereas, for the next several years, Charles Kuralt completed various assignments for CBS, including covering the Vietnam War and other news stories from various locations throughout the world, and serving as the first host of the CBS prime time series, "Eyewitness", as the CBS Latin American Correspondent, and as the Chief West Coast Correspondent; and

Whereas, after many years of masterful news reporting, Charles Kuralt began his acclaimed "On the Road" series, as part of "The CBS Evening News" in 1967; and

Whereas, for the next 12 years, Charles Kuralt traveled the highways and byways of the United States searching for stories that represented the ordinary American; and

Whereas, on January 28, 1979, Charles Kuralt began his "Sunday Morning" series, and for the next 15 years, warmed the hearts of millions of viewers across the nation each Sunday morning with 90 minutes of wonderful stories and scenes from all over the United States; and

Whereas, after a 37-year career at CBS, Charles Kuralt retired on April 3, 1994; and

Whereas, Charles Kuralt was the author of six books; and

Whereas, Charles Kuralt received numerous awards and recognitions, including 12 Emmy Awards and three Peabody Awards and was inducted into the North Carolina Journalism Hall of Fame in 1981; and

Whereas, despite his fame, Charles Kuralt never forgot his beloved home state nor his alma mater, which he often assisted with fund-raising projects; and

Whereas, in 1995, Charles Kuralt served as the speaker for the dedication of the Tate-Turner-Kuralt Building, which is named for him and houses the School of Social Work, on the campus of the University of North Carolina at Chapel Hill; and

Whereas, Charles Kuralt died on July 4, 1997; and

Whereas, Charles Kuralt is survived by his wife, Suzanna "Petie" Kuralt; his daughters, Lisa White and Susan Bowers; a brother, Wallace Kuralt, Jr., a sister, Catherine Harris; and two grandchildren; and

Whereas, Charles Kuralt possessed a peculiar insight that enabled him to contribute substantially and effectively to the improvement and betterment of the world around him, enriching the lives of those with whom he was associated and came in contact; and

Whereas, in the passing of Charles Kuralt, North Carolina has lost one of its most beloved, admired, and respected native sons;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly honors the life and memory of Charles Bishop Kuralt and expresses its gratitude and appreciation of this State and its citizens for his life and service.

Section 2. The General Assembly expresses its deep sorrow to the family and friends of Charles Bishop Kuralt for the loss of a beloved husband, father, and a true friend.

Section 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Charles Kuralt.

Section 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 26th day of August, 1997.

H.J.R. 1238

RESOLUTION 32

A JOINT RESOLUTION PROVIDING FOR THE CONFIRMATION OF THE APPOINTMENT OF ROBERT V. OWENS, JR. MADE BY THE GOVERNOR TO MEMBERSHIP ON THE NORTH CAROLINA UTILITIES COMMISSION.

Whereas, under the provisions of G.S. 62-10, appointments made by the Governor to membership on the North Carolina Utilities Commission are subject to confirmation by the General Assembly by joint resolution; and

Whereas, the Governor has submitted to the presiding officers of the House of Representatives and the Senate, the names of his appointees to serve full terms on the North Carolina Utilities Commission;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The appointment of Robert V. Owens, Jr. to the North Carolina Utilities Commission for a term beginning July 1, 1997, and expiring June 30, 2005, is confirmed.

Section 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

H.J.R. 306

RESOLUTION 33

A JOINT RESOLUTION SETTING THE TIME FOR ADJOURNMENT OF THE 1997 GENERAL ASSEMBLY TO MEET IN 1998 AND LIMITING THE SUBJECTS THAT MAY BE CONSIDERED IN THAT SESSION.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. When they adjourn on Thursday, August 28, 1997, the House of Representatives and the Senate shall adjourn to reconvene at noon on Monday, May 11, 1998. During that session only the following matters may be considered:

- (1) Bills directly and primarily affecting the State budget for fiscal year 1998-99, provided that no such bill may be introduced in the House of Representatives or filed for introduction in the Senate after 4:00 p.m. Thursday, May 28, 1998, and any such measure must have been submitted to the Bill Drafting Division of the Legislative Services Office by 4:00 p.m. Thursday, May 21, 1998.
- (2) Bills and resolutions introduced in 1997 and having passed third reading in 1997 in the house in which introduced, received in the other house in accordance with Senate Rule 41 or House Rule 31.1(d) as appropriate, and not disposed of in the other house by tabling, unfavorable committee report, indefinite postponement, or failure to pass any reading, and which do not violate the rules of either body.

- (3) Bills and resolutions implementing the recommendations of:
 - a. Study commissions authorized or directed to report to the 1998 Session;
 - b. The House Ethics Committee; or
 - c. The Joint Legislative Ethics Committee or its Advisory Subcommittee.Any bills authorized by this subdivision must be filed for introduction in the Senate or introduced in the House of Representatives no later than 4:00 p.m. Thursday, May 21, 1998, and any such measure must have been submitted to the Bill Drafting Division of the Legislative Services Office by 4:00 p.m. Thursday, May 14, 1998.
- (4) Any local bill introduced in the House of Representatives or filed for introduction in the Senate by 4:00 p.m. Wednesday, May 27, 1998, and any such measure must have been submitted to the Bill Drafting Division of the Legislative Services Office by 4:00 p.m. Wednesday, May 20, 1996, and accompanied by a certificate signed by the principal sponsor stating that no public hearing will be required or asked for by a member on the bill, the bill is noncontroversial, and the bill is approved for introduction by each member of the House of Representatives and Senate whose district includes the area to which the bill applies.
- (5) Selection, appointment, or confirmation of members of State boards and commissions as required by law, including the filling of vacancies of positions for which the appointees were elected by the General Assembly upon recommendation of the Speaker of the House of Representatives, President of the Senate, or President Pro Tempore of the Senate.
- (6) Any matter authorized by joint resolution passed during the 1998 Session by two-thirds majority of the members of the House of Representatives present and voting and by two-thirds majority of the members of the Senate present and voting. A bill or resolution filed in either house under the provisions of this subdivision shall have a copy of the ratified enabling resolution attached to the jacket before filing for introduction in the Senate or introduction in the House of Representatives.
- (7) Any bills primarily affecting any State or local pension or retirement system, introduced in the House of Representatives or filed for introduction in the Senate by 4:00 p.m. Wednesday, May 27, 1998, and any such measure must have been submitted to the Bill Drafting Division of the Legislative Services Office by 4:00 p.m. Wednesday, May 20, 1998.
- (8) Joint resolutions, House resolutions, and Senate resolutions pertaining to Section 5(10) of Article III of the Constitution of North Carolina.
- (9) A joint resolution adjourning the 1997 Regular Session, sine die on a date earlier than provided by Section 3 of this resolution.
- (10) Bills to disapprove rules under G.S. 150B-21.3.

Section 2. The Speaker of the House of Representatives or the President Pro Tempore of the Senate may authorize appropriate committees or subcommittees of their respective houses to meet during the interim between sessions to:

- (1) Review matters related to the State budget for the 1997-99 biennium,
- (2) Prepare reports, including revised budgets, or
- (3) Consider any other matters as the Speaker of the House of Representatives or the President Pro Tempore of the Senate deems appropriate,

except that no committee or subcommittee of a house may consider, after the date of adjournment provided in Section 1 of this resolution and before the date of reconvening provided in Section 1 of this resolution, any bill, or proposed committee substitute for such bill, which originated in the other house. A conference committee may meet in the interim upon approval by the Speaker of the House of Representatives or the President Pro Tempore of the Senate.

Section 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

The first of these is the fact that the
university has been able to attract
to it a large number of the best
talents of the country. This is due
to the fact that the university has
been able to attract to it a large
number of the best talents of the
country. This is due to the fact
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to attract to it a large number of
the best talents of the country.

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the best talents of the country.

The third of these is the fact that
the university has been able to
attract to it a large number of
the best talents of the country.

**Conference Report on the
Continuation, Expansion and
Capital Budgets**

August 27, 1997

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Credit Balance Transactions

Composition of Credit Balance (in \$million):

Unappropriated Balance per 1996 Session	200.0
Reversions for 1996-97	140.9
Revenue Collections in Excess of Authorizations	539.1
Subtotal	880.0

Adjustment for Disaster Relief	(115.0)
Emergency Appropriation-Community Colleges	(4.7)

Actual Credit Balance June 30, 1996	760.3
-------------------------------------	-------

Earmarking of Unreserved Credit Balance:

Savings Reserve Account	
Repairs and Renovations Reserve Account	(135.0)
Repairs and Renovations Reserve Account Supplement	(39.3)
Clean Water Management Trust Fund	(49.4)
Reserve for Intangibles Tax Refund	(156.0)
Subtotal	380.6

Adjustment for Library Grant Reversion	0.3
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Unreserved Credit Balance, July 1, 1997	380.9
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The State Treasurer is authorized to invest \$61,000,000 of the unreserved credit balance of July 1, 1997 in the NC Railroad

Availability Analysis Fiscal Years 1997-99

	Fiscal Year 1997-98			Fiscal Year 1998-99		
	Recurring	Nonrecurring	Total	Recurring	Nonrecurring	Total
Unreserved Credit Balance July 1, 1997	-	319.9	319.9	-	-	-
Tax/Nontax Revenue Based on Existing Law	11,032.0	-	11,032.0	11,698.9	-	11,698.9
Federal Retirees Refunds	-	(35.5)	(35.5)	-	(35.5)	(35.5)
Highway Trust Fund Transfer	170.0	-	170.0	170.0	-	170.0
Disproportionate Share Receipts	-	-	-	-	83.0	83.0
Subtotal	11,202.0	(35.5)	11,166.5	11,868.9	47.5	11,918.4
Adjustments:						
Highway Fund Transfer	12.6	-	12.6	13.4	-	13.4
Revenue Collections from Increased Auditing	2.6	-	2.6	7.9	-	7.9
Reversion: State Health Plan Purchasing Alliance	-	0.6	0.6	-	-	0.0
Fee Increase: State Treasurer's Operations	0.5	-	0.5	0.5	-	0.5
Subtotal-Adjustments	15.7	0.6	16.3	21.8	-	21.8
Finance Bills (see list)	10.9	-	10.9	(79.8)	-	(79.8)
Total Availability	11,228.6	285.0	11,513.6	11,810.9	47.5	11,858.4

Finance Bills Used in Availability Statement

Bill Number and Short Title	Impact (In millions)		
	1997-98	1998-99	
HB 13 Simplify and Reduce Inheritance Tax	0.0	(2.5)	
HB 14 Update Custom Computer Software	0.5	0.7	Chapter SL 97-0370
HB 15 Conform tax on restored income	(0.1)	(0.1)	Chapter SL 97-0213
HB 35 Conform Sales Tax Refund Period	0.0	0.2	Relitified
HB 57 Nonresident Withholding	8.5	10.0	Chapter SL 97-0109
HB 59 Internal Revenue Code Update	(8.5)	(16.8)	Chapter SL 97-0055
HB 204 Foreclosure Filing Fees	0.1	0.1	Chapter SL 97-0114
HB 280 Conservation Tax Credit	(3.2)	(3.2)	Chapter SL 97-0226
HB 754 Illicit Liquor Tax	0.1	0.1	Chapter SL 97-0292
HB 1057 Exempt Audio Visual Masters	(1.0)	(1.6)	
SB 318 Amend Bill Lee Act	0.0	(0.3)	Chapter SL 97-0277
SB 323 Historic Rehab Tax Credit	0.0	(0.1)	Chapter SL 97-0139
SB 93 Ports Tax Credit	0	(0.5)	Included in SB 352
Conference Report for SB 727			
Repeal of 1% of Sales Tax on Food eff 7/1/98	0.0	(83.8)	
Court Fee Increase, effective 9/1/97	12.6	15.1	
Insurance Regulatory Charge "	0.0	0.0	
Utilities Regulatory Charge	0.0	0.0	Departmental Receipt
Secretary of State Fee Increase	1.5	1.7	
Revenue: Corporate Filing	0.3	1.2	

Subj: Francis B. Blythe DOB: 12/11/1913 POB: LAUREL, MISSOURI SSN: 09-417981

** Surcharge increase goes to Regulatory Fund which reimburses General Fund Nontax Revenues

GENERAL FUND APPROPRIATIONS BY DEPARTMENTS FOR 1997-98

	Continuation Recommendations	Transfers	Reductions	Increases	Net Change	Revised Appropriation
General Government						
Administration	58,567,213	(235,848)	(3,377,971)	1,360,550	(2,233,069)	57,334,144
Administrative Hearings	2,217,466	0	(10,860)	150,593	139,993	2,357,389
State Auditor	9,495,866	0	0	688,978	688,978	10,184,864
State Controller	18,053,306	0	(5,498,357)	5,337,824	(180,533)	15,852,773
Cultural Resources	52,608,363	792,227	(710,262)	12,589,344	12,671,309	85,279,672
General Assembly	31,226,277	0	0	0	0	31,226,277
Governor's Office:						
Governor's Office	5,286,820	0	(151,998)	98,310	(53,686)	5,232,934
Office of State Budget	3,855,400	1,450,000	(37,382)	8,655,202	10,067,220	13,923,220
Office of State Planning	1,820,279	0	(17,829)	0	(17,829)	1,802,450
Insurance	19,890,965	(1,450,000)	0	5,753,898	4,303,898	24,184,863
Lt. Governor	812,176	0	(2,946)	0	(2,946)	809,230
Revenue	66,045,123	235,948	(1,159,048)	593,270	(327,128)	67,717,995
Rules Review	281,892	0	0	240,000	240,000	521,892
Secretary of State	5,243,012	0	0	1,310,000	1,310,000	6,553,012
State Board of Elections	1,052,787	0	0	500,000	500,000	1,552,787
State Treasurer Operations	6,404,216	0	0	458,277	458,277	6,862,493
State Treasurer Pensions	12,027,616	0	0	0	0	12,027,616
Subtotal General Government	285,676,619	752,227	(10,963,479)	37,798,248	27,584,994	323,263,613
Transportation	10,609,654	0	0	0	0	10,609,654
Education	4,400,046,882	0	(58,306,887)	168,578,746	110,271,859	4,510,318,741
Public Education	489,218,944	0	(817,506)	28,989,051	28,471,545	517,890,489
Community Colleges	1,418,356,030	0	(21,461,115)A	46,271,253	24,910,138	1,443,166,188
University	6,307,623,656	0	(60,285,308)	243,839,080	183,353,542	6,471,177,396
Subtotal Education	12,215,213,460	0	(61,103,723)	318,697,434	222,050,275	12,436,803,167
Natural and Economic Resources	49,480,730	(792,227)	(25,000)	2,426,157	1,808,930	51,089,660
Agriculture	2,300,000	0	0	5,000,000	7,300,000	7,300,000
Housing Finance Agency	37,221,648	0	(1,735,485)	11,688,331	9,952,846	47,174,494
Commerce	1,475,000	1,800,000	(1,475,000)	10,575,000	10,900,000	12,375,000
Commerce State Aid	4,500,000	0	0	0	0	4,500,000
MCNC	7,664,398	0	0	8,500,000	8,500,000	16,164,398
Biotechnology Center	5,670,000	(1,800,000)	(150,000)	3,350,000	1,400,000	7,270,000
Rural Economic Development Center	253,288,888	0	(4,828,433)	38,904,673	34,276,240	287,546,128
Environment, Health, & Natural Resources	16,068,855	0	(192,546)	40,825	(151,721)	15,917,134
Labor						
Subtotal Natural and Economic Resources	377,850,517	(792,227)	(8,208,464)	80,484,986	71,488,295	449,338,612

GENERAL FUND APPROPRIATIONS BY DEPARTMENTS FOR 1997-98

	Continuation Recommendations	Transfers	Reductions	Increases	Net Change	Revised Appropriation
Justice and Public Safety						
Judicial	310,944,929	0	(4,058,589)	20,928,163	16,869,574	327,814,503
Justice	81,166,247	0	(1,523,504)	9,199,429	7,675,925	88,842,172
Corrections	889,010,472	0	(9,210,795)	1,326,300	(85,884,405)	823,126,067
Crime Control & Public Safety	33,548,678	0	(342,930)	462,794	119,864	33,668,542
Subtotal Justice and Public Safety	1,294,670,328	0	(73,133,816)	31,914,778	(41,219,042)	1,253,451,284
Human Resources						
Secretary's Office	34,353,290	0	(1,096,966)	4,000,000	2,903,034	37,256,324
Aging	18,441,843	0	(2,927)	6,175,000	6,172,073	24,613,918
Medical Assistance	1,305,882,010	0	(135,023,966)	0	(135,023,966)	1,170,858,044
Social Services	178,519,348	0	(5,199,512)	5,903,752	704,240	179,223,588
Vocational Rehabilitation	31,396,194	0	(81,439)	1,700,000	1,638,561	33,034,755
Mental Health	534,598,078	0	(22,283,496)	16,178,371	(6,085,127)	528,512,951
Child Development	145,668,821	0	(25,442)	22,928,878	22,903,436	168,572,257
Facility Services	9,008,903	0	(128,692)	200,000	71,308	9,080,211
Services for Deaf/HH	28,000,344	0	(158,350)	0	(158,350)	27,843,994
Blind Services	15,482,793	0	(144,820)	0	(144,820)	15,337,973
Youth Services	85,731,787	0	(1,353,218)	3,577,850	2,224,834	87,956,421
Subtotal Human Resources	2,386,683,411	0	(165,456,626)	80,683,651	(104,792,977)	2,282,070,434
Reserves and Debt Service						
Contingency and Emergency Fund	1,125,000	0	0	0	0	1,125,000
Compensation Increase	0	0	0	344,716,757	344,716,757	344,716,757
Retirement Contribution Rate Adjustments	0	0	(20,331,500)	0	(20,331,500)	(20,331,500)
Salary Adjustment Fund	9,073,829	0	0	0	0	9,073,829
Postage Reduction	(300,000)	0	0	0	0	(300,000)
CJIS Reserve	400,000	0	0	0	0	400,000
Debt-Reimbursement to Federal Government	1,155,948	0	0	0	0	1,155,948
Debt Service	180,096,073	0	(82,769,521)	0	(82,769,521)	117,326,552
Subtotal Reserves and Debt Service	191,550,850	0	(83,101,021)	344,716,757	261,615,736	453,166,586
Grand Total for Current Operations	10,864,847,833	0	(421,147,116)	799,375,866	378,226,548	11,243,076,181
Capital Improvements	0	0	0	147,991,120	147,991,120	147,991,120
Grand Total for Current Operations and Capital	10,864,847,833	0	(421,147,116)	947,366,766	526,219,666	11,391,067,301

A Includes Tuition Increase

GENERAL FUND APPROPRIATIONS BY DEPARTMENTS FOR 1998-99

	Continuation Recommendations	Transfers	Reductions	Increases	Net Change	Revised Appropriation
General Government						
Administration	80,961,819	(235,648)	(3,177,709)	285,550	(3,147,807)	57,814,012
Administrative Hearings	2,217,486	0	(10,690)	150,593	139,903	2,357,389
State Auditor	8,504,065	0	0	512,528	512,528	10,018,813
State Controller	16,096,630	0	(5,350,824)	0	(5,350,824)	10,705,706
Cultural Resources	52,922,221	786,713	(710,262)	3,054,344	3,130,795	56,053,018
General Assembly	34,642,598	0	0	0	0	34,642,598
Governor's Office	5,302,348	0	(151,998)	0	(151,998)	5,150,352
Governor's Office	3,938,220	1,450,000	0	5,590,000	6,992,816	10,330,838
Office of State Budget	1,833,978	0	(17,829)	0	(17,829)	1,815,950
Office of State Planning	19,809,612	(1,450,000)	0	5,826,578	4,176,578	24,086,190
Insurance	612,338	0	(2,946)	0	(2,946)	609,390
LL Governor	66,967,335	235,648	(1,156,048)	804,730	(115,668)	66,746,967
Revenue	273,441	0	0	0	0	273,441
Rules Review	5,230,680	0	0	80,000	80,000	5,310,680
Secretary of State	1,046,381	0	0	1,086,000	1,089,000	2,135,381
State Board of Elections	6,406,375	0	0	438,575	438,575	6,844,950
State Treasurer Operations	12,027,818	0	0	0	0	12,027,818
State Treasurer Pensions	301,748,264	786,713	(10,818,784)	17,801,898	7,772,827	309,521,091
Subtotal General Government	11,248,448	0	0	0	0	11,248,448
Transportation						
Education						
Public Education	4,480,110,784	0	(35,703,838)	48,787,460	13,083,624	4,493,194,418
Community Colleges	489,578,970	0	(835,012)	15,459,051	14,624,039	504,200,909
University	1,425,342,510	0	(22,658,850)A	52,777,824	29,511,574	1,455,280,484
Subtotal Education	6,395,030,174	0	(89,398,698)	117,024,338	87,825,837	8,452,855,811
Natural and Economic Resources						
Agriculture	49,688,983	(786,713)	(50,000)	870,362	133,649	48,822,832
Housing Finance Agency	2,300,000	0	0	0	0	2,300,000
Commerce	37,240,865	0	(1,735,485)	3,071,899	1,336,464	38,577,338
Commerce State Aid	1,475,000	1,800,000	(1,475,000)	200,000	525,000	2,000,000
MCNC	2,500,000	0	0	0	0	2,500,000
Biotechnology Center	7,664,396	0	0	0	0	7,664,396
Rural Economic Development Center	5,870,000	(1,800,000)	(150,000)	0	(1,850,000)	3,920,000
Environment, Health, & Natural Resources	252,502,338	0	(4,328,433)	6,458,666	2,131,233	254,833,571
Labor	15,986,164	0	(192,546)	34,825	(157,721)	15,828,463
Subtotal Natural and Economic Resources	378,227,768	(786,713)	(7,931,464)	10,738,792	2,018,618	377,248,401

GENERAL FUND APPROPRIATIONS BY DEPARTMENTS FOR 1998-99

	Continuation Recommendations	Transfers	Reductions	Increases	Net Change	Revised Appropriation
Justice and Public Safety						
Judicial	316,284,817	0	(4,918,187)	15,755,578	10,837,391	327,102,308
Justice	63,233,877	0	(1,264,004)	4,815,979	3,551,975	66,785,852
Correction	825,286,138	0	(80,681,498)	3,212,830	(57,448,668)	867,817,472
Crime Control & Public Safety	33,530,244	0	(342,930)	533,516	190,586	33,720,830
Subtotal Justice and Public Safety	1,338,295,176	0	(87,206,617)	24,317,903	(42,888,714)	1,295,406,462
Human Resources						
Secretary's Office	34,119,030	0	(1,098,986)	0	(1,098,986)	33,022,064
Aging	18,442,124	0	(2,927)	5,170,930	5,168,003	23,610,127
Medical Assistance	1,440,383,285	0	(52,824,782)	0	(52,824,782)	1,387,558,503
Social Services	184,614,383	0	(5,188,512)	4,998,752	(200,760)	184,413,823
Vocational Rehabilitation	31,896,315	0	(81,439)	1,200,000	1,138,561	32,834,876
Mental Health	548,289,828	0	(13,749,003)	18,098,063	2,350,060	550,618,863
Child Development	145,674,488	0	(25,442)	25,988,030	25,963,588	171,638,076
Facility Services	9,110,235	0	(128,892)	0	(128,892)	8,981,343
Services for Deaf/HH	27,954,173	0	(158,350)	0	(158,350)	27,797,823
Blind Services	15,480,775	0	(144,820)	0	(144,820)	15,335,955
Youth Services	86,394,651	0	(679,278)	3,700,000	3,020,722	89,415,373
Subtotal Human Resources	2,543,119,238	0	(74,089,211)	57,187,775	(16,811,436)	2,525,207,899
Reserve and Debt Service						
Contingency and Emergency Fund	1,125,000	0	0	0	0	1,125,000
Compensation Increase	0	0	0	343,408,871	343,408,871	343,408,871
Retirement Rate Adjustment	0	0	0	0	0	0
Salary Adjustment Fund	9,573,828	0	0	0	0	9,573,828
Postage Reduction	(300,000)	0	0	0	0	(300,000)
CJIS Reserve	400,000	0	0	0	0	400,000
Debt Reimbursement to Federal Government	1,155,948	0	0	0	0	1,155,948
Debt Service	224,048,883	0	(18,875,184)	0	(18,875,184)	205,373,699
Subtotal Reserves and Debt Service	236,003,660	0	(18,875,184)	343,408,871	324,733,687	560,736,247
Grand Total for Current Operations	11,198,670,800	0	(237,896,958)	570,248,574	332,351,616	11,532,022,416
A Includes Tuition Increase						

Community Colleges

	GENERAL FUND	
	FY 97-98	FY 98-99
Recommended Budget	\$489,218,944	\$489,676,870

Legislative Changes

1 Occupational Extension	\$9,993,517	R	\$9,993,517	R
Increases funds available for occupational extension programs as requested by the State Board of Community Colleges. These are short-term job training programs that do not lead to a degree.				
2 Equipment and Books	\$4,000,000	R	\$4,000,000	R
Funds \$10.55 million for additional equipment, \$1.95 million for library books, and \$500,000 for the State Board of Community Colleges to participate in the NC-LIVE project with UNC and the State Library which reduces the duplication of expenditures for library resources.				
	\$9,000,000	NR		
3 New and Expanding Industry Funds				
These funds will provide money for customized training projects to attract new industry and to support training needs of existing industries that expand their workforce.				
	\$4,000,000	NR		
4 Enrollment Increases	\$1,215,534	R	\$1,215,534	R
Funds the enrollment increases for the community college system.				
5 State Board Reserve Fund- Program Start-Up Funds	\$250,000	R	\$250,000	R
Funds to increase the State Board Reserve in order to provide additional money to start new community college programs.				
	\$130,000	NR		
6 Hosiery Technology Center				
Funds for the operation of the Hosiery Technology Center.				
	\$100,000	NR		
7 New Industry Equipment for Regional Coordinators	(\$300,000)	R	(\$300,000)	R
Reduce the funds available to buy equipment for the Department of Community Colleges' regional coordinators.				
8 Community Services Block Grant	(\$86,581)	R	(\$86,581)	R
Reduce funds in the Community Services Block Grant that offers hobby and leisure classes to the community.				
9 JTPA Administrative Funds	(\$17,216)	R	(\$17,216)	R
Reduce the administrative funds allocated to colleges that offer JTPA class size projects from federal funds.				

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10 Curriculum Improvement Projects	(\$113,709)	R	(\$113,709)	R
Reduce the State funds in this program by the amount reverted due to the availability of federal funds for this purpose.				
11 Maintenance of Plant			(\$317,506)	R
Elimination of the operation and maintenance of plant funds in FY 1998-99 for Central Carolina and Southwestern Community Colleges.				
12 Fayetteville Tech. Comm. College Capital Planning				
Capital planning funds for Fayetteville Technical Community College to establish a model early childhood education center for Cumberland County.	\$300,000	NR		
<hr/>				
Total Legislative Changes	\$14,941,545	R	\$14,624,039	R
	\$13,530,000	NR		
Total Position Changes				
Revised Budget	\$517,690,489		\$504,200,909	
<hr/>				

Public Education

		GENERAL FUND	
		FY 97-98	FY 98-99
Recommended Budget		\$4,400,046,882	\$4,480,110,794
Legislative Changes			
A. Excellent Schools Funds			
13 ABC Incentive Funds			
ABC Incentive funds for schools that achieve standards established by the State Board of Education.	\$72,400,000	NR	
14 Vacation Days Used as Teacher Workdays	\$8,500,000	R	\$8,500,000 R
Pay teachers for vacation days that are used as required teacher workdays.			
15 Staff Development Reading and Math/ABC Assistance	\$6,800,000	R	\$6,800,000 R
Provide funds to the State Board of Education to for staff development in reading as required under the ABC program and math education. Funds are also used for the ABC assistance teams in low performing school systems.			
16 Additional Pay for Mentor Teachers			
Provide additional funds to the State Board of Education to pay for mentor teachers.	\$3,500,000	NR	
17 Extra Pay for New Teacher Development			
Provide additional funds to the State Board of Education to pay for additional days for new teachers for training and staff development.	\$800,000	NR	
B. School Safety Initiatives			
18 School Safety Funds	\$10,000,000	R	\$10,000,000 R
Improve school safety by providing additional funds to expand alternative schools and other programs for at-risk students. Local school systems may also use these funds to hire school safety officers.			
19 Reduction in Middle School Class Size Grade	\$3,200,000	R	\$3,200,000 R
Reduce class size for middle school students below grade level in achievement.			
20 Safety Assistance Teams	\$500,000	R	\$500,000 R
Provides funds for school assistance teams to local schools. The goal of these teams is to assist local schools in establishing a safe orderly learning environment.			

C. School Technology**21 School Technology Funds**

Provides additional funds for the School Technology Trust Fund.

\$20,000,000

NR

22 Expand Technology in Schools

\$500,000

R

\$500,000

R

Provides funds for a pilot project on the expansion of technology in the public schools.

D. Special Education**23 Increase Funds for Handicapped Children**

\$2,950,512

R

\$2,950,512

R

Additional funding for children with special needs to reflect the April 1997 head count. These funds are in addition to the increases in the Continuation Budget.

24 Special Education Funds

To provide funds to the State Board of Education for children with special needs assigned to group homes within a school system after the state headcount that was the basis for funding during the 1997-98 fiscal year.

\$500,000

NR

E. Supplemental Funding**25 Low Wealth Supplemental Funding**

\$4,000,000

R

\$4,000,000

R

Increase supplemental funding for low wealth school systems.

26 Small School Supplemental Funding

\$2,000,000

R

\$2,000,000

R

Increase supplemental funding for small school systems.

F. Adjustments in ADM and Average Salary**27 Adjustment in Average Salary**

(\$20,415,665)

R

(\$20,779,145)

R

Adjust projected average salary for school employees in FY1997-98 and FY1998-99 to September 1996 actual salaries.

28 Adjustment in Average Salary

(\$7,704,040)

R

(\$7,825,991)

R

Adjust projected average salary for school employees in FY1997-98 and FY1998-99 to December 1996 actual salaries.

29 Revise Average Daily Membership and Average Salary

\$4,818,618

R

\$2,622,174

R

Revise average daily membership projections to reflect changes in the expected number of students in various grade levels in FY1997-98 and FY1998-99. Also reflects an increase of 400 private school students entering charter schools in FY1997-98.

30 Career Development Hold Harmless

(\$2,551,197)

R

(\$2,551,197)

R

Eliminate hold harmless funding for former career development pilot units. Due to projected salary increase these funds will no longer be needed.

Public Education

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Conference Report on the Continuation, Capital and Expansion Budgets

31 School Bus Purchases	(\$26,835,985)	R	(\$3,747,503)	R
Purchase school buses with nonrecurring funds during FY1997-98.	\$19,194,842	NR		
G. Program Support				
32 Total Quality Education				
Provides fund to continue the Total Quality Education initiative. Other funds to support this program come from the North Carolina Business Committee on Education.	\$450,000	NR		
33 National Board for Professional Teaching Standards	\$567,330	R	\$567,330	R
Continue to support North Carolina teachers in the process of attempting to achieve certification by the National Board for Professional Teaching Standards.				
34 Governor's School	\$100,000	R	\$100,000	R
Provide additional funds to support operations of the Governor's School.				
35 Communities In Schools	\$250,000	R	\$250,000	R
Provide funds for the expansion of the Communities in Schools Program.				
36 A+ Schools				
Appropriate nonrecurring funds for FY1997-98 to continue the A+ schools pilot project.	\$500,000	NR		
37 Avid Program Pilots	\$150,000	R	\$150,000	R
Provide funds for the AVID Program pilot project. This pilot project in three school systems is designed to increase enrollment of low income students in post secondary education.				
38 Global Curriculum Program				
Funds to improve students knowledge and understanding of middle and high school students in the areas of international and cultural studies.	\$150,000	NR		
39 Communities In Schools Funds	\$100,000	NR		
To provide funds to the Rocky Mount Communities in Schools program.				
40 Cued Speech Funds	\$50,000	R	\$50,000	R
Appropriate funds to Cued Speech for preschool and transitional and resource services.				
H. Charter Schools				
41 Support Charter Schools	\$103,147	R	\$103,147	R
Appropriate funds to the State Board of Education to provide assistance and oversight of the charter school program.				

Public Schools

42 Liability Insurance	(\$800,000)	R	(\$800,000)	R
Eliminate funding for teacher liability insurance.				
43 Model Teacher Consortium	\$600,000	R	\$600,000	R
Provide funds to expand the Model Teacher Consortium into additional counties.				
44 Positions to Assist Local School Construction	\$200,000	R	\$200,000	R
Provide funds to the Department of Public Instruction to contract for architectural services, mechanical engineering services, and accounting services to assist in the review of school construction projects that result from the recent statewide school bond referendum.				
45 Instructional Supplies, Materials, and Equipment	\$2,500,000	R	\$2,500,000	R
Provide funds for additional instructional supplies, materials, and equipment in local school systems.				
46 Uniform Education Reporting System Funds	\$2,551,197	R	\$2,551,197	R
Provide funds to the State Board of Education to support the Uniform Education Reporting System and the accountability efforts of the board.				
47 Schools Attuned Program	\$643,100	R	\$643,100	R
Appropriates funds to the State Board of Education for the Schools Attuned Program. The program is designed to assist elementary and middle school teachers to recognize and be responsive to the learning styles and learning strengths of all children, regardless of whether they have potential or diagnosed learning dysfunctions.				
Total Legislative Changes	(\$7,322,983)	R	\$13,083,824	R
	\$117,594,842	NR		
Total Position Changes				
Revised Budget	\$4,510,316,741		\$4,493,194,418	

UNC System

GENERAL FUND

	FY 97-98		FY 98-99	
Recommended Budget	\$1,418,358,030		\$1,425,342,510	
Legislative Changes				
A.Academic Campuses				
48 Overhead Receipts	(\$381,521)	R	(\$381,521)	R
Revise overhead receipts estimates up to levels anticipated during 1996-97				
49 UNC-Charlotte	(\$349,631)	NR		
Reduction in Reserve for New Buildings: The library addition will be completed later than planned, and will be occupied in late 1997-98.				
B.Schedule of Priorities				
50 Enrollment Changes			\$3,744,391	R
Projected enrollment for 1997-98 is lower than the number of students budgeted for 1996-97 by 969 full-time equivalents (FTE); provides for an additional 925 fulltime equivalent students in second year of biennium, and to account for a shift to more in-state students.				
	(\$1,895,403)	NR		
	-58.20		81.00	
51 Funding Equity	\$21,000,000	R	\$21,000,000	R
Provides funding for 5 campuses (ASU, ECU, UNC-C, UNC-G, UNC-W) found to be relatively under funded compared to other campuses in a study conducted at the direction of the General Assembly				
52 Libraries	\$2,000,000	R	\$2,000,000	R
Improvements in library collections, services, and staffing; initial development of NC Virtual Library with community colleges and State Library.				
53 University Outreach to the Public Schools	\$1,785,000	R	\$1,185,000	R
Funding to:				
a. Increase clinical experience for prospective teachers and involvement of classroom teachers;				
b. Increase number of Principal Fellows;				
c. Improve coordination of professional development programs for school professionals with priorities of State Board of Education;				
d. Implement Early Math Placement Program in high schools to improve math preparation.				
e. Support for "Reading Together", a tutorial program for second graders.				

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54 New Degree Programs	\$2,325,000	R	\$2,325,000	R
Funds to complete expansion of allied health initiatives in speech and language pathology and occupational and physical therapy, new doctoral programs at UNC-Charlotte, and other programs previously authorized for planning by the UNC Board of Governors.				
55 Graduate Education and Research			\$7,700,659	R
Eliminate the requirement that 10% of overhead receipts received from research grants are budgeted to support General Fund operations on campuses.				
56 Area Health Education Centers	\$2,750,000	R	\$2,750,000	R
Funds will increase family medicine residencies and provide more community based training experiences for mid-level practitioners and pharmacy students				
57 Administrative Support for New Processes	\$300,000	R	\$481,521	R
Improvements in data collection and analysis for assessment, evaluation, and budgeting purposes.				
58 Distinguished Professorships	\$1,000,000	R	\$1,000,000	R
Additional State matching funds for the establishment of endowed chairs for outstanding faculty. State funds are matched 2 for 1 by private dollars.				
	\$1,000,000	NR		
59 Interinstitutional Programs	\$794,000	R	\$794,000	R
Funding for NC School of the Arts Summer Institute, Institute on Aging, computer support for the State Education Assistance Authority, and NC Scholastic Media Association Project.				
	2.00		2.00	
C.Related Educational Programs				
60 Scholarship Fund Balances				
Reduce appropriations and use accumulated cash balances in non-reverting trust funds due to cash repayments; revert balance in old scholarship fund				
	(\$1,850,790)	NR		
61 Aid to Private Medical Schools	(\$329,000)	R	(\$365,000)	R
Continue assistance for same level of enrollments as actual numbers for 1996-97				
62 Board of Governors Dental Scholars	(\$9,968)	R	(\$24,704)	R
Hold inflationary increases below projected levels				
63 Board of Governors Medical Scholars	(\$38,735)	R	(\$20,700)	R
Hold inflationary increases to 3% annually				
64 Aid to Students Attending Private Colleges	\$7,864,668	R	\$7,864,668	R
Increase legislative Tuition Grant from \$1,300 to \$1,450 per year for each fulltime NC undergraduate; increase need-based scholarship funding from \$600 per fulltime equivalent (FTE) NC student to \$750 per NC FTE student.				

UNC System

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D.Agricultural Programs

65 Cunningham Farm Research Center

Non-recurring funds for development of Cunningham Farm site near Kinston as a specialty crops research and market development center for NC State

\$250,000 NR

66 Agricultural Research

Additional funding for enhancement of agricultural production and life sciences industries while sustaining and improving environmental quality

\$500,000 R \$500,000 R

E.UNC Hospitals

67 UNC Hospitals Reduction

Reduce UNC Hospitals General Fund operating support.

(\$10,000,000) R (\$10,000,000) R

F.Studies

68 Pfisteria Research

Funds to provide enhanced facilities and resources for pfisteria research at NC State.

\$400,000 NR

69 Isotope Study of Neuse and Cape Fear River Basins

Funding to complete isotope study to identify sources of nitrogen in each river basin.

\$400,000 NR

G.Other

70 Cancer Research Funds

Additional funds for cancer research at Lineberger Cancer Research Center at UNC-Chapel Hill

\$1,000,000 R \$1,000,000 R

71 Autism Services

Additional funding for Division TEACCH at UNC-Chapel Hill School of Medicine for operating support of field offices and for Carolina Living and Learning Center

\$232,585 R \$232,585 R

72 Fish Hatchery Research

Funds to continue fish hatchery research for the red drum and flounder species

\$200,000 NR

73 Piedmont Triad Center for Applied Manufacturing

Funds to supplement the operating costs of the PT-CAM facility through NC A & T State University while it develops the capacity to be self-supporting

\$400,000 NR

74 East Carolina Performance Center

Start up costs and initial operating expenses for the L. T. Walker International Human Performance Center

\$350,000 NR

75 Manufacturing Extension Partnership

Funds to match increase in federal grant to expand services to manufacturers through NC State

\$900,000 NR

Conference Report on the Continuation, Capital and Expansion Budgets

76 Botanical Gardens	\$200,000	R	\$200,000	R
Additional operating support for Botanical Gardens at UNC-Chapel Hill	5.00		5.00	
77 Arbitration Settlement Payment				
Funds to assist NC Central with payment of arbitrated contract settlement for fiber optic network	\$270,000	NR		
78 International Program				
Funding for NC School of the Arts students Arts Abroad program	\$200,000	NR		
79 Law Enforcement Officers Training				
Funding to educate law enforcement managers at NC State	\$150,000	NR		
H. Tuition				
80 Tuition Increase	(\$6,606,067)	R	(\$12,067,925)	R
1997-98: Increases of 3% (\$22-42 per year) in-state ; non-residents at NC State and UNC-CH 5%, NC School of the Arts 3% to more fully fund cost of education for non-residents				
1998-99: 2% across the board				
Total Legislative Changes	\$24,385,862	R	\$29,917,974	R
	\$424,176	NR		
Total Position Changes	-52.20		68.00	
Revised Budget	\$1,443,168,168		\$1,455,260,484	

Administration

GENERAL FUND

	FY 97-98		FY 98-99
Recommended Budget	\$59,567,213		\$60,961,819

Legislative Changes

(0000) All Divisions

1 Personnel Reductions	(\$527,405)	R	(\$527,405)	R
Reductions recommended by the Governor, including one painter supervisor, nine painters, one vacant office assistant position in Facilities Management, a vacant position in the Council for Person's with Disabilities, and an office assistant position in the Board of Science and Technology. Reduction also includes \$105,014 in salary reserve money.	-13 00		-13 00	

(1121) Fiscal Management

2 Reduced Data Processing Services	(\$7,000)	R	(\$7,000)	R
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(1225) State Health Plan Purchasing Alliance Board

3 Reversions From Previous Operating Budgets	\$0	R	\$0	R
Under the statutory language creating the State Health Plan Purchasing Alliance Fund, left over balances from the Board's operating budget have not been reverting to the General fund. These past balances and the interest earned on them should be transferred from the State Health Plan Purchasing Alliance Fund to the General Fund at the end of 1996-97. This transfer will increase funds available for 1997-98 by \$648,718.				

4 Miscellaneous Line Item Reductions	(\$47,000)	R	(\$47,000)	R
Reductions in operating budget:				
Rent/Lease:	(\$10,000)			
Transportation:	(\$5,000)			
Data Processing:	(\$10,000)			
Printing, binding, duplicating:	(\$17,000)			
Registration Fees:	(\$1,000)			
Office Equipment:	(\$4,000)			

(1241) Management Information Systems

5 Reductions In Operating Expenses	(\$3,463)	R	(\$3,463)	R
Reductions in data processing maintenance and office furniture and equipment				

Administration

(1264) Agency for Public Telecommunications

6 Reductions in contractual services and travel	(\$8,920)	R	(\$8,920)	R
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(1311) Office of State Personnel

7 Staff for Personnel Mgmt Information System (PMIS)	\$137,934	R	\$137,934	R
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The Governor recommends funding to provide two (2) computer analyst programmers and a support position to enable the Office to respond to increased mainframe data collection and analytical needs, and to continue to efficiently respond to PMIS users.

\$15,000	NR	
3.00		3.00

8 Operating Budget Reductions

Reduce funds in the following line items in FY 97-98:

(\$70,406)	NR
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(531572) Unemp Comp Payments to ES	(\$ 7,016)
(531625) St Disability Payment	(15,000)
(532199) Misc Contractual Svcs	(26,000)
(532850) Printing	(2,390)
(532942) Other Emp Educational Ex	(10,000)
(536905) Employer OJT Incentive	(5,000)
(537102) Res Emp Survey	(5,000)

(1421) Facility Management**9 Delays in Operating New Buildings**

Reductions recommended by the Governor due to delays in the opening of the new SBI Laboratory, the Old Revenue Building and the Natural Science Museum.

(\$678,000)	NR	(\$370,000)	NR
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10 Additional Delays in Operating New Buildings

Additional reductions beyond those recommended by the Governor due to additional delays in the opening of the new SBI Laboratory, the Old Revenue Building and the Natural Science Museum.

(\$215,773)	NR	(\$371,920)	NR
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11 Increase Rental Receipts

Increases receipts to the Department of Administration by charging rent to the State Treasurer and to the Department of Insurance. The rent paid by these agencies is offset by increases in the receipts they collect and in the non-tax revenues their operations generate. The Treasurer will be charged \$645,025. Insurance will be charged \$511,225.

(\$1,156,250)	R	(\$1,156,250)	R
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12 Reduce Operating Budget for New Buildings

Reduces amount budgeted for indirect costs in operating new buildings.

(\$496,440)	R	(\$518,437)	R
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(1623) State Capitol Police**13 Eliminate Two Vacant Property Guard Positions**

(\$42,524)	R	(\$42,524)	R
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-2.00

-2.00

Administration

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Conference Report on the Continuation, Capital and Expansion Budgets

14 Transfer Positions to Revenue.	(\$235,648)	R	(\$235,648)	R
Transfers 10 property guards from Capitol Police to Department of Revenue. Includes salaries, benefits, uniforms and equipment.	-10.00		-10.00	
(1741) Human Relations Council				
15 Reduction In Miscellaneous Line Items	(\$11,938)	R	(\$11,938)	R
(1761) Youth Involvement Office				
16 Increase Wages for Interns	\$77,616	R	\$77,616	R
Increases hourly wage for interns from \$5.00 to \$6.75 per hour. Increase is recommended by the Governor.				
(1771) Veteran Affairs				
17 Reductions In Expenses	(\$65,124)	R	(\$65,124)	R
Two veterans cemetery maintenance positions will be converted to receipts-supported positions, and motor vehicle replacements will be reduced.				
(1781) Domestic Violence Program				
18 Additional Position	\$50,000	R	\$50,000	R
Administrative assistant position to monitor batterers treatment programs. Recommended by Governor.	1.00		1.00	
19 Funds for Local Domestic Violence Programs	\$1,100,000	NR	\$0	NR
Provides additional one-time funding to local domestic violence programs.				
(1811) Advocacy for Disabled				
20 Reduce Operating Expenses	(\$8,600)	R	(\$8,600)	R
Reductions in contractual services, and board member travel and subsistence				
(1861) Commission of Indian Affairs				
21 Delete Match for Title XX	(\$15,000)	R	(\$15,000)	R
Title XX federal funds for Indian Day Care have been discontinued. Therefore, matching funds are no longer needed.				
(1862) Low-Level Radioactive Waste				
22 Reductions In Communication Expense and Travel	(\$11,018)	R	(\$11,018)	R

Administration

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(1871) Board of Science and Technology

23 Reduction in Communications Expense

(\$13,110) R (\$13,110) R

Total Legislative Changes	(\$2,383,890)	R	(\$2,405,887)	R
	\$150,821	NR	(\$741,920)	NR
Total Position Changes	-21.00		-21.00	
Revised Budget	\$57,334,144		\$57,814,012	

Auditor

GENERAL FUND

	FY 97-98		FY 98-99	
Recommended Budget	\$9,495,886		\$9,504,085	
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Legislative Changes				
(1120) Support Services				
24 Maintenance on Printing Equipment	\$38,600	R	\$38,600	R
Provides funds to maintain printing and duplicating equipment. Recommended by the Governor.				
(1210) Field Audit Division				
25 Equipment Replacement Reserve	\$175,000	R	\$175,000	R
Recurring funds would allow the Auditor to replace computers every three years. Recommended by the Governor.				
26 Audit Software	\$0	R	\$15,000	R
	\$159,000	NR	\$0	NR
27 EDP Audit Positions	\$123,606	R	\$123,606	R
Additional electronic data processing auditors.				
	\$12,980	NR	\$0	NR
	2.00		2.00	
28 Additional Audit Positions	\$160,322	R	\$160,322	R
Additional performance and financial auditors				
	\$19,470	NR	\$0	NR
	3.00		3.00	
<hr/>				
Total Legislative Changes	\$497,528	R	\$512,528	R
	\$191,450	NR	\$0	NR
Total Position Changes	5.00		5.00	
Revised Budget	\$10,184,864		\$10,016,613	

Auditor

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Cultural Resources

GENERAL FUND

Recommended Budget

FY 07-98

\$52,608,363

FY 98-99

\$52,922,221

Legislative Changes

(0000) Departmentwide

29 Salary Reductions/Span of Control

(\$610,262) R

(\$610,262) R

Reduce positions in the department as a result of the study authorized per Section 10.1, Chapter 324, 1995 Session Laws. The Department will eliminate 20 positions, including three (3) supervisory positions; reduce Reserve Funds for the Museum of History, Home Creek Farm, Historic Sites, and Museum of Art; and reduce budgets of Archives and Records, Historic Sites, and the State Library.

20.00

20.00

(1110) Office of the Secretary

30 Grants to Local Organizations

Provide funds to local arts, cultural, and historical organizations; and local museums as grants-in-aid.

\$8,000,000 NR

(1210) Archives and History - Admin

31 Blackbeard's Flagship

Appropriate funds for the surveillance, preservation, and protection of the shipwreck of Blackbeard's flagship, Queen Anne's Revenge.

\$200,000 NR

32 Maritime Museum

\$792,227 R

\$786,713 R

Transfer positions, operating support, equipment, property, and other assets of the North Carolina Maritime Museum from the Department of Agriculture to the Department of Cultural Resources, Division of Archives and History (Fund 1210).

17.25

17.25

	FY 1997-98	FY 1998-99
Requirements	\$ 792,527	\$ 787,013
Receipts	(\$ 300)	(\$ 300)
Appropriation	\$ 792,227	\$ 786,713

(1230) Archives and Records

33 North Carolina Postal History Commission

Appropriates funds to establish the NC Postal History Commission to advise the department on the collection, preservation, cataloging, publication, and exhibition of material associated with North Carolina's postal history.

\$35,000 NR

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(1241) State Historic Sites

34 Town Creek Indian Mound

Appropriate funds for an archaeological curation and education facility at the site.

\$50,000 NR

35 Somerset Place

Provide funds for construction and contracted personal services.

\$250,000 NR

36 State Civil War Sites

Funding is authorized to preserve, improve, and promote the State's Civil War era sites.

\$1,000,000 NR

37 Reductions in Travel and Equipment

Reduce the following line items in FY 98-99:

FY 98-99:

(532714) In-State transportation (\$15,000)

(534549) Other Motorized Vehicles (\$15,000)

(\$30,000) R

(1250) Archaeology and Historic Preservation

38 Historic Rehabilitation Tax Credit Program

Appropriates funds to allow the department to implement the program.

\$54,344 R

\$54,344 R

1.00

1.00

(1410) State Library Services

39 Library and Learning Resources

Reduce funds in line item 534630 in FY 98-99.

(\$6,000) R

(1480) Statewide Programs & Grants

40 6960 Aid to Counties

Increase funds for grants to public libraries in accordance with the formula for State-Aid to libraries.

\$2,000,000 R

\$2,000,000 R

41 NC LIVE - Statewide Electronic Library

Funding to support NC-Live (North Carolina Libraries and Virtual Education), a collaborative effort among the State Library and public libraries statewide in partnership with libraries in the University of North Carolina system and the Community College system recommended by the Governor to expand access to library and information resources. Initial funds will support statewide licensing of on-line reference and research materials.

\$1,000,000 R

\$1,000,000 R

(1500) Museum of History

42 Equipment

Reduce funds in line item 534522 in FY 98-99.

(\$30,000) R

Cultural Resources

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(1992) Continuation Reserves

43 Reduce Funds in Operating Reserves

(\$100,000) R

(\$34,000) R

Reduce funds in the reserves both years of the biennium as follows:

FY 97-98

(537102) Museum of History.

2 Hist Mus Specs, Gr. 65, eff. 9/97 (\$39,720)

1 Pub Info Asst III, Gr. 57, eff 9/97 (14,490)

Social Security (4,022)

Retirement (5,694)

Med Ins (1,560)

In-State Trans (3,000)

In-State Subsistence (2,200)

Training and Registration (1,000)

Printing, Binding, etc., (1,000)

Other Mat & Supplies (483)

Office Furniture (1,000)

(537110) Tryon Palace

1 Painter (\$20,336)

Social Security (1,556)

Retirement (2,203)

Med Ins (1,736)

FY 98-99

(537103) Historic Sites

Hist Halifax Tap Room

Misc Contractual Services (\$ 5,000)

Enrg Ser - Electrical (3,000)

Enrg - Water & Sewer (200)

Repairs - Other (3,500)

In-State Trans (200)

In-State Lodging (100)

In-State Subsistence (100)

Telephone Service (550)

Postage, etc. (200)

Print, Binding, etc. (6,250)

Other Emp Educ Exp (100)

Other Mat & Supplies (800)

Equip - Other (9,000)

Art & Artifacts (5,000)

Total Legislative Changes

\$3,136,309

R

\$3,130,795

R

Total Position Changes

\$9,535,000

NR

38.25

38.25

Revised Budget

\$65,279,672

\$56,053,016

Cultural Resources

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Governor

GENERAL FUND

	FY 97-98		FY 98-99	
Recommended Budget	\$5,286,620		\$5,302,348	
Legislative Changes				
(0000) Departmentwide				
44 Purchased Contractual Services	(\$22,367)	R	(\$22,367)	R
(1110) Administration				
45 Assistant Chief of Staff Position	(\$98,310)	R	(\$98,310)	R
Remove recurring funding for the position and associated benefits of Assistant Chief of Staff. Provide nonrecurring funds for first year only.	\$98,310 0.00	NR	-1.00	
(1130) Office of Intergovernmental Relations				
46 Eliminate Military Liaison Position	(\$25,220)	R	(\$25,220)	R
Eliminate the position and associated benefits for Military Liaison. This position has been vacant since 10-01-94.	-1.00		-1.00	
(1631) Raleigh Executive Residence				
47 Transfer to CC & PS	(\$6,099)	R	(\$6,099)	R
This transfer repays Crime Control & Public Safety (CC & PS) the costs of supplying the Governor's guards. \$6,099 was the amount of the requested increase from last year. The money will be saved by using guards with the same salaries as the current guards are earning.				
Total Legislative Changes	(\$161,996)	R	(\$151,996)	R
	\$98,310	NR		
Total Position Changes	-1.00		-2.00	
Revised Budget	\$5,232,934		\$6,150,362	

Insurance

GENERAL FUND

Recommended Budget

FY 97-98

\$19,880,965

FY 98-99

\$19,909,612

Legislative Changes

(0000) Departmentwide

48 Rent for State-Owned Space

\$511,225

R

\$511,225

R

The Insurance Department occupies 40,898 square feet of space in the Dobbs Building. Rent paid to the Department of Administration, at \$12.50 per square foot, would amount to \$511,225 annually. This money would be used to reduce Administration's General Fund appropriation.

(1200) Company Services

49 Additional Financial Analysts

\$51,778

R

\$55,552

R

Hire additional financial analysts with HMO expertise to handle mergers and acquisitions.

1.00

1.00

(1300) Technical Services

50 Additional Market Practices Examiners

\$313,314

R

\$333,174

R

Adds two three-person teams to monitor market practices. At least one of the teams will monitor the practices of Health Maintenance Organizations (HMOs).

6.00

6.00

51 Seniors' Health Insurance Information Program

\$32,311

R

\$31,357

R

Hire additional employee to handle phone calls.

1.00

1.00

(1500) Safety Services

62 Upgrade and Increase Fire and Rescue Services

\$96,000

R

\$96,000

R

Computer software for counties to submit Fire Incident Reports and implement Rescue Reporting Program.

53 Additional Employees for Manufactured Housing

\$0

R

\$0

R

Hire additional inspectors for manufactured housing and buildings. These positions are 100% receipt-supported.

3.00

3.00

FY 97-98

Expenditures: \$237,622

Receipts: 237,622

Appropriations: 0

FY 98-99

Expenditures: \$217,972

Receipts: 217,972

Appropriations: 0

Insurance

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(1900) Reserves and Transfers

54 Consumer Protection Fund

Additional funds to hire outside contractual services for legal proceedings in ratesetting cases. \$150,000 NR

55 Transfer Fire Protection Grant Program

(\$1,450,000) R (\$1,450,000) R

The Fire Protection Grant Program is transferred to the Office of State Budget and Management. The Department of Insurance will not need an appropriation to fund this program.

56 Fire and Rescue Workers' Comp

\$4,500,000 R \$4,500,000 R

Provides a recurring grant to the Fire and Rescue Workers' Comp Fund. Intent is for the State to contribute to the Fund until its reserves (projected time: about 8 years) are sufficient to enable it to be self-supporting.

57 Pay for Revenue Workers

\$99,270 R \$99,270 R

Transfers \$99,270 in FY 1997-98 and \$99,270 in FY 1998-99 to pay the Department of Revenue for collecting the gross premiums tax and the Regulatory Charge which supports the Department of Insurance.

Total Legislative Changes

\$4,153,898 R \$4,176,578 R

\$150,000 NR

Total Position Changes

11.00 11.00

Revised Budget

\$24,184,863 \$24,086,190

Lieutenant Governor

GENERAL FUND

FY 97-98

FY 98-99

Recommended Budget

\$612,176

\$612,336

Legislative Changes

(1110) Administration

66 Miscellaneous Expenses, Equipment, and Services

(\$2,946) R

(\$2,946) R

Reductions in Registration Fees, Other Employee Educational Expenses, Maintenance Agreement-Equipment, DP Equipment, Repairs-Computer Equipment, General Office Expenses, Cellular Phone Service, Postage, and Telephone Service.

Total Legislative Changes

(\$2,946) R

(\$2,946) R

Total Position Changes

Revised Budget

\$609,230

\$609,390

Office of Administrative Hearings

GENERAL FUND

	FY 97-98		FY 98-99	
Recommended Budget	\$2,217,486		\$2,217,486	
Legislative Changes				
(1100) Administration and Operations				
59 Administrative Law Judge Salaries	\$103,206	R	\$103,206	R
Sets salary for the Chief Administrative Law Judge equal to that fixed for District Court Judges. Sets the salaries of Administrative Law Judges at 90% of the salary of the Chief Administrative Law Judge. Establishes that the Chief Administrative Law Judge and Administrative Law Judges shall receive longevity pay.				
60 LAN Administrator	\$47,387	R	\$47,387	R
Provides funds to hire one person to administer local-area-network (LAN) system.				
	1.00		1.00	
61 Reduce Services and Equipment	(\$10,690)	R	(\$10,690)	R
Reductions in Maintenance Agreements, Data Processing Services, Furniture & Equipment, and Printing.				
Total Legislative Changes	\$139,903	R	\$139,903	R
Total Position Changes	1.00		1.00	
Revised Budget	\$2,357,389		\$2,357,389	

Office of State Planning

GENERAL FUND

Recommended Budget

FY 97-98

\$1,820,279

FY 98-99

\$1,833,679

Legislative Changes

(1412) Geodetic Survey

62 Make One-Half Position Receipt-Supported

(\$17,829)

R

(\$17,829)

R

Office of State Planning has one position which receives one-half of its funding from the General Fund. This position will become entirely receipt-supported.

-0.50

-0.50

Total Legislative Changes

(\$17,829)

R

(\$17,829)

R

Total Position Changes

-0.50

-0.50

Revised Budget

\$1,802,450

\$1,815,850

Revenue

GENERAL FUND

	FY 97-98		FY 98-99
Recommended Budget	\$68,045,123		\$68,862,635
Legislative Changes			
(0000) Departmentwide			
63 Salary Reductions/Span of Control	(\$592,976)	R	(\$592,976) R
Reduce positions in the department as a result of the study authorized per Section 10.1, Chapter 324, 1995 Session Laws. The approach for the Department is three-fold with the elimination of nine (9) positions; reduction of salary reserve created by lowering the budgeted level of fifteen (15) revenue officer and revenue tax auditor trainee positions to the first step; and reduction of operating line items.	-9.00		-9.00
(1600) Administration			
64 Administrative Program Reductions	(\$200,000)	R	(\$200,000) R
Reduce funds for data processing equipment and for repairs to buildings each year of the biennium:			
FY 97-98			
(532310) Repairs - Buildings	(\$100,000)		
(534522) Equipment - Computers	(\$100,000)		
FY 98-99			
(532310) Repairs - Buildings	(\$100,000)		
(534522) Equipment - Computers	(\$100,000)		
(1620) Tax Administration			
85 Assist New Audit Positions	\$31,305	R	\$62,609 R
Add an Administrative Officer III, as recommended by the Governor, to offset increased workload resulting from the new audit positions, effective January 1, 1998.	\$8,500	NR	
	1.00		1.00
66 Annual Corporate Reports	\$87,073	R	\$112,144 R
Provide funds for personnel and operating costs as department assumes responsibility for collection of annual corporate reports, resulting from the passage of S8 727.	\$74,200	NR	
	2.00		2.00
67 Capitol Police	\$235,648	R	\$235,648 R
Transfer ten (10) Property Guards with salaries, benefits, uniforms, and equipment from Capitol Police in the Department of Administration to the Department of Revenue.	10.00		10.00

Revenue

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(1640) Tax Compliance

68 Premiums Tax Positions	(\$99,270)	R	(\$99,270)	R
Funds transferred from the Department of Insurance regulatory charge to provide continued support for the two (2) positions that are responsible for collection of the gross premiums tax. For the Department of Revenue the transfer of funds increases receipts, reducing the General Fund appropriation.	-2.00		-2.00	

(1660) Field Operations

69 Additional Interstate Audit Personnel	\$298,192	R	\$629,977	R
Appropriate funds for seven (7) new auditor positions and two (2) Tax Technicians in the Interstate Audit Division per the recommendation of the Governor. Positions are effective January 1, 1998.	\$94,000	NR		
	9.00		9.00	

(1680) Legal and Administrative Services

70 Reductions to Postage and Printing	(\$263,800)	R	(\$263,800)	R
Adjust appropriations for the following line items each fiscal year:				
(532840) Postage	(\$251,800)			
(532850) Printing	(\$ 12,000)			

Total Legislative Changes	(\$503,828)	R	(\$115,668)	R
	\$176,700	NR		
Total Position Changes	11.00		11.00	
Revised Budget	\$67,717,995		\$68,746,867	

Rules Review Commission

GENERAL FUND

	FY 97-98	FY 98-99
Recommended Budget	\$281,892	\$273,441
Legislative Changes		
(1100) Administration		
71 Other Expenses		
Appropriate funds to support legal expenses resulting from the lawsuit.	\$240,000	NR
Total Legislative Changes	\$240,000	NR
Total Position Changes		
Revised Budget	\$521,892	\$273,441

Secretary of State

GENERAL FUND

	FY 97-98		FY 98-99	
Recommended Budget	\$5,243,012		\$5,230,680	
Legislative Changes				
(0000) Departmentwide				
72 New Computer System	\$80,000	R	\$80,000	R
Replaces old computer equipment with new local area network, new imaging system, new relational database software. Funds include money for a project manager and for computer consultants.	\$1,230,000	NR	\$0	NR
	1.00		1.00	
Total Legislative Changes	\$80,000	R	\$80,000	R
	\$1,230,000	NR	\$0	NR
Total Position Changes	1.00		1.00	
Revised Budget	\$6,553,012		\$5,310,680	

State Board of Elections

GENERAL FUND			
	FY 97-98		FY 98-99
Recommended Budget	\$1,052,787		\$1,046,381
Legislative Changes			
(0000) Departmentwide			
73 Computerized Voter Registration System	\$500,000	R	\$1,089,000 R
Funding to supplement the \$5.0 million computer reserves appropriated to design and implement the statewide voter registration system. Additional funds may be required to maintain the voter registration system in later years.			
Total Legislative Changes	\$500,000	R	\$1,089,000 R
Total Position Changes			
Revised Budget	\$1,552,787		\$2,135,381

State Budget and Management

GENERAL FUND

Recommended Budget

FY 97-98

\$3,855,400

FY 98-99

\$3,938,220

Legislative Changes

(1022) 1997 Special Appropriations

74 Reserve for Purchase of State Flags

\$50,000 NR

75 Fire Protection Grant Fund

\$3,080,000

R

\$3,080,000

R

Creates the State Fire Protection Grant Fund in the Office of State Budget and Management. States the intention of the General Assembly to make annual appropriations to this fund of at least \$3,080,000 from the General Fund, \$150,000 from the Highway Fund, and \$970,000 from University of North Carolina receipts. Requires the Office of State Budget and Management to develop a statewide method for distributing the monies in the fund to local fire districts and political subdivisions to compensate them for providing fire protection to State-owned buildings and their contents.

76 NC Humanities Council

Provides a grant to the North Carolina Humanities Council, a not-for-profit organization.

\$100,000

NR

77 Women's Memorial Funds

This is a State Donation to the Women in Military Service for America Memorial Foundation, Inc., for the purpose of creating a memorial to women veterans of the armed services.

\$50,000

NR

78 St. Mark's Capital Funds

Appropriates to St. Mark's, Incorporated, a nonprofit corporation, a grant for building a new preschool facility to serve children with developmental disabilities.

\$1,700,000

NR

(1310) Office of State Budget and Management

79 New Position

\$50,000

R

\$50,000

R

Creates a new analyst position to assist in analytical/administrative duties associated with increasing workload in the Capital Improvements Section.

1.00

1.00

80 Reduce Employee Costs

(\$5,010)

R

(\$5,010)

R

Reduce objects Employee Benefit Cost and Supplement to Regular Wage. Department plans that this money will not be needed due to savings accrued while vacancies exist.

Conference Report on the Continuation, Capital and Expansion Budgets

81 Property, Plant & Equipment	(\$32,372)	R	(\$32,372)	R
Department will save money by deferring purchase of new items of equipment.				
82 Reserve for Welfare Reform	\$1,189,127	R	\$3,900,000	R
Funds to be transferred to responsible agencies to meet additional costs associated with welfare reform.	\$3,886,075	NR		
<hr/>				
Total Legislative Changes	\$4,281,745	R	\$6,992,618	R
	\$5,786,075	NR		
Total Position Changes	1.00		1.00	
Revised Budget	\$13,923,220		\$10,930,838	
<hr/>				

State Controller

GENERAL FUND

	FY 97-98		FY 98-99
Recommended Budget	\$16,053,306		\$16,056,630
Legislative Changes			
(1000) Divisionwide			
82 North Carolina Information Highway	(\$5,337,824)	R	(\$5,337,824) R
Provide non-recurring support in FY 97-98 for 101 existing sites - 52 high schools; 30 Community Colleges, including 1 data only site; two (2) campuses in the University System; 17 State and local agencies; and new sites. Additionally, appropriates to the Office of State Controller funds for long distance services. Funding for FY 98-99 to be considered in the 1998 Session.	\$5,337,824	NR	
83 Additional Operating Budget Reductions			
Reduce the following line items in FY 97-98:	(\$147,433)	NR	
(532821) Data Processing Services (\$94,055)			
(5369AA) NCIH (53,378)			
84 532700 Travel/Subsistence	(\$13,100)	R	(\$13,100) R
Reduce the following line items each fiscal year:			
(532714) In-State transportation (\$10,000)			
(532724) In-State meals (\$ 3,100)			
Total Legislative Changes	(\$5,360,924)	R	(\$5,350,924) R
	\$5,190,391	NR	
Total Position Changes			
Revised Budget	\$16,882,773		\$10,705,706

Treasurer

GENERAL FUND

Recommended Budget

FY 97-98

\$18,432,034

FY 98-99

\$18,434,193

Legislative Changes

(0000) All Divisions

85 Rent for State-Owned Office Space

\$281,487

R

\$281,487

R

This appropriation will enable the Treasurer to pay rent to the Department of Administration for State-owned office space.

Expenditures: \$836,230

Receipts: \$554,743

Appropriations: \$281,487

Non-Tax Revenue: \$281,487

(1110) General Administration

86 Strengthen Personnel Function

\$0

R

\$0

R

Funds a Personnel Officer I position in the department. Recommended by the Governor. Expenditures of \$44,558 in 1997-98 and \$42,127 in 1998-99 would be covered by increased receipts.

1.00

1.00

(1150) Information Systems

87 Maintenance of Automated Programs

\$0

R

\$0

R

Increased staffing to maintain automation in the department. Recommended by the Governor. Expenditures of \$240,968 in 1997-98 and \$230,264 in 1998-99 will be covered by increased receipts.

5.00

5.00

(1210) Investment Management

88 Strengthen Investment Administration

\$74,889

R

\$56,065

R

Additional Portfolio Manager to handle increased volumes of investments. Recommended by the Governor. These appropriations from the General Fund would be offset by increases in non-tax revenues.

1.00

1.00

(1310) Local Government Operations

89 Improve Ability to Manage Debt Approval

\$101,901

R

\$101,023

R

Additional staff to respond to increased demands for technical assistance. Recommended by the Governor. These appropriations from the General Fund would be offset by increases in non-tax revenues.

2.00

2.00

Treasurer

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Total Legislative Changes	\$458,277	R	\$438,575	R
Total Position Changes	9.00		9.00	
Revised Budget	\$18,890,311		\$18,872,768	

Human Resources

GENERAL FUND

	FY 97-98		FY 98-99	
Recommended Budget	\$2,386,863,411		\$2,542,119,295	
Legislative Changes				
(1.00) Division of Medical Assistance				
1 State Match for Alzheimer's Unit				
Eliminates the state Medicaid match for the FY97/98 operating reserve due to construction delays.	(\$324,790)	NR	\$0	NR
2 Nursing Home Bed Adjustments	(\$1,058,611)	R	(\$3,726,846)	R
Adjusts the forecast for nursing home beds to reflect lag time for the construction of new nursing home beds.				
3 Drug Rebate Increase	(\$5,040,680)	R	(\$5,811,868)	R
Increases Drug Rebates because more revenue is anticipated due to increased drug prices and increased effort by Division of Medical Assistance to claim rebates.				
4 DME Rent and Supply Rate Adjustment	(\$620,387)	R	(\$629,024)	R
Adjusts methodology used to establish durable medical equipment rental rates by basing rates on useful life of equipment and return on investment.				
5 Third Party Liability Cost Avoidance	(\$1,892,180)	R	(\$1,918,522)	R
Adjusts methodology for ensuring that payment by all other responsible parties for services consumed by Medicaid eligibles occurs before any payments are made by Medicaid.				
6 Personal Care Services Criteria	(\$1,364,851)	R	(\$1,383,852)	R
Establishes more specific criteria for Personal Care Services to ensure the appropriateness of care for Medicaid eligibles who receive Personal Care Services.				
7 Home Health Care Cost Avoidance	(\$651,406)	R	(\$660,475)	R
Ensures that Home Health Care services covered by Medicare are paid by Medicare instead of Medicaid.				
8 Reduce Inflationary Increases	(\$3,472,560)	R	(\$3,875,407)	R
Reduces Inflationary increases for providers by .30%.				
9 Adjust 1996-97 Base Year for Actual Performance	(\$37,546,969)	R	(\$14,424,443)	R
Adjusts the 1996-97 base year to reflect actual expenditures through 12/96 which indicates that the budget is higher than projected expenditures. This adjustment allows the projected budget for the 1997-99 biennium to be reduced.				

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10 Medicaid Reduction Initiative	\$0	R	(\$20,342,823)	R
Reduces the growth in the Medicaid budget from 10.5% to 9% by making additional reductions to program costs.				
11 Eliminate Positions	(\$46,747)	R	(\$46,747)	R
Eliminates three positions: DMA Nurse I, DMA Service Consultant, and Administrative Secretary III.				
	-3.00		-3.00	
12 Salary Reserve Reduction	(\$4,775)	R	(\$4,775)	R
13 Medicaid Disproportionate Share Revenue				
Budget Disproportionate Share revenue as a departmental receipt.				
	(\$83,000,000)	NR		
(2.00) Office of the Secretary				
14 Reduce SIPS Payments	(\$500,000)	R	(\$500,000)	R
Reduces SIPS payments due to the centralization of data processing.				
15 Salary Reserve Reduction	(\$13,144)	R	(\$13,144)	R
Division of Personnel.				
16 Eliminate Positions	(\$170,000)	R	(\$170,000)	R
Eliminates funding which is being transferred to the Governor's Office for the Senior Advisor for Children and Families and one additional staff person.				
	-2.00		-2.00	
17 Reduce State Aid to Community Action Agencies	(\$413,822)	R	(\$413,822)	R
Reduces State Aid to Community Action Agencies due to a \$2.6 million increase in federal funds.				
(3.00) Division of Mental Health				
18 Reduce Utilities at State Facilities	(\$1,089,373)	R	(\$1,119,662)	R
Reduces the cost of utilities at state facilities to reflect actual 1995-96 expenditures.				
19 Reduce Willie M. Community Services	(\$500,000)	R	(\$500,000)	R
Reduces continuation budget increases for Willie M. Community Services.				
20 Reduce Overtime Expenditures at State Facilities	(\$3,547,533)	R	(\$3,547,533)	R
Reduces overtime and related fringes at the following state facilities: Butner Adolescent Treatment Center, Cherry Hospital, Dix Hospital, Unstead Hospital, Caswell Center, Murdoch Center, O'Berry Center, and Western Carolina Center.				
21 Salary Reserve Reduction	(\$49,692)	R	(\$49,692)	R

Conference Report on the Continuation, Capital and Expansion Budgets

22 Reduce Thomas S Funds	(\$1,690,926)	R	(\$932,116)	R
Reduces excess Thomas S funding based on current spending patterns.				
23 Thomas S Reduction	\$0	R	(\$7,600,000)	R
Reduces funding for Thomas S by allowing the Department to use existing departmental funds to meet court-mandated caseload needs for FY97/98.	(\$15,200,000)	NR	\$0	NR
Reduces funding in FY98/99 in anticipation of decreases in direct services due to implementation of cost containment strategies.				
24 Reduce Operating Reserve				
Reduces the operating reserve for the Alzheimer's Unit in Wilson due to construction delays; leaves \$388,272 needed to fund non-recurring start-up cost for FY97/98.	(\$175,974)	NR	\$0	NR
Deletes Medicaid receipts of \$1,040,878.				
(4.00) Division of Social Services				
25 Adolescent Parenting Program	(\$23,886)	R	(\$23,886)	R
Reduces state appropriations in anticipation of additional Medicaid receipts for program administration.				
26 Reduce Excess Appropriation in Reserve	(\$295,717)	R	(\$295,717)	R
Reduces excess state appropriations in reserve for data processing.				
27 Increase State Return on Child Support Collections	(\$3,000,000)	R	(\$3,000,000)	R
Reduces appropriations by budgeting increased State return on Child Support Collections.				
28 Interest Earned on Child Support Collections	(\$300,000)	R	(\$300,000)	R
Reduces appropriations by budgeting interest on child support collections.				
29 Eliminate Positions	(\$58,952)	R	(\$58,952)	R
Eliminates three positions: Social Services Program Administrator II, Social Services Program Consultant II, and Income Maintenance Quality Assurance Analyst.	-3.00		-3.00	
30 Salary Reserve Reduction	(\$20,957)	R	(\$20,957)	R
31 Reduce Case Management Funding	(\$500,000)	R	(\$500,000)	R
Reduces funding for Enhanced Adult Core Home case management services due to under-utilization of services.				
32 Reduce State/County Special Assistance	(\$1,000,000)	R	(\$1,000,000)	R
Reduces funding for State/County Special Assistance to reflect more accurate estimate of expenditures.				

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(6.00) Division of Youth Services

33 No Rate Increase in Eckerd Camp Rates	(\$501,215)	R	(\$501,215)	R
Maintains Eckerd Wilderness Camp payment rate of \$74.89 per day.				
34 Increased Receipts in Detention Centers	(\$178,063)	R	(\$178,063)	R
Reduces state appropriations to reflect increased receipts.				
35 Reduce Operating Reserves				
Reduces operating reserves for two detention centers due to construction delays.	(\$673,938)	NR	\$0.	NR

(6.00) Division of Blind Services

36 Reduce Medical Eye Care Program	(\$47,538)	R	(\$47,538)	R
Reduces appropriations for the Medical Eye Care Program to reflect more accurate estimate of program requirements.				
37 Utility Adjustments for Governor Morehead School	(\$72,483)	R	(\$72,483)	R
Reduces state appropriations for utilities to reflect projected expenditures.				
38 Adjustment to Budgeted Salaries	(\$7,568)	R	(\$7,568)	R
Adjusts budgeted salaries to reflect actual expenditures.				
39 Salary Reserve Reduction	(\$6,208)	R	(\$6,208)	R
40 Eliminate State Funds for Position	(\$11,023)	R	(\$11,023)	R
Replaces state appropriations with Business Enterprise funds to support one position.				

(7.00) Division of Facility Services

41 Eliminate Positions	(\$48,692)	R	(\$48,692)	R
Eliminates two positions and related support: Applications Programmer II and Processing Assistant V.				
	-2.00		-2.00	
42 Reduce Health Care Personnel Registry	(\$80,000)	R	(\$80,000)	R
Reduces funding for the Health Care Personnel Registry due to increased Medicaid receipts.				

(6.00) Division of Aging

43 Salary Reserve Reduction	(\$2,927)	R	(\$2,927)	R
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Conference Report on the Continuation, Capital and Expansion Budgets

(9.00) Div. Services for Deaf/Hard of Hearing

44 Reduce Overtime Expenditures

Reduces overtime expenditures at the residential schools for the deaf.

(\$73,984) R (\$73,984) R

45 Salary Reserve and Longevity Reduction

(\$82,366) R (\$82,366) R

(10.00) Division of Vocational Rehabilitation

46 Salary Reserve Reduction

(\$61,439) R (\$61,439) R

(11.00) Division of Child Development

47 Reduce Excess Postage and Printing Costs

Eliminates excess funds for postage and printing resulting from increased use of automation in the criminal records check program.

(\$25,442) R (\$25,442) R

(12.00) Division of Mental Health

48 Reserve for Grants-in-Aid for Substance Abuse

Provides grants-in-aid to be held in reserve for substance abuse treatment programs. Allocation of the funds is contingent upon the Secretary of DHR's evaluation of the efficiency and effectiveness of various substance abuse treatment programs.

\$1,250,000 NR \$0 NR

Conference Report on the Continuation, Capital and Expansion Budgets

49 Community Mental Health Expansion Funds	\$5,000,000	R	\$5,000,000	R
Provides additional funds as follows:				
	5.10		5.10	
(1) Mental Health Services				
Residential Services	\$610,000			
Deaf Mentally Ill	125,000			
Supportive Housing/Ind. Living	631,667			
Vocational Services	300,000			
	\$1,666,667			
(2) Developmental Disabilities				
Vocational Services	500,000			
Residential Subsidies	62,000			
Traumatic Brain Injury	283,000			
Supported Living Projects	273,000			
Children's Services	245,000			
Family Support Regional Prog.	170,000			
Respite Services	64,000			
Assistive Technology	36,666			
Guardianship Services	33,000			
	\$1,666,666			
(3) Substance Abuse Services				
Maternal SA Services	583,334			
Services for Deaf/HH	250,000			
Child & Adolescent Services	683,333			
Family Program Services at				
Black Mtn ADATC (5.1 FTE's)	150,000			
	\$1,666,667			
50 Broughton Hospital Funds				
Provides \$130,000 to complete installation of a CAT Scan Machine.	\$130,000	NR	\$0	NR
51 Mental Health Services for County Jail Inmates	\$0	R	\$250,000	R
Provides funds to facilitate the provision of mental health services to county jail inmates in their local communities rather than state psychiatric hospitals.				
52 Autism Operating Funds	\$504,000	R	\$504,000	R
Provides funds for the following:				
(1) Autism Society of N.C., Inc;	\$ 89,000			
(2) Vocational Training Program - Job Placement for Adults Model in Wake County;	325,000			
(3) Vocational Training Program, an international teacher's exchange program; and	50,000			
(4) One training position to serve the Raleigh, Research Triangle Park and Chapel Hill areas	40,000			
53 Additional Staff and Equipment/Facility Funds	\$157,088	R	\$157,088	R
Adds the following staff: 1.0 Electrician II, 1.0 Maintenance Mechanic IV, 2.0 Painter, and 2.0 Health Care Technician Supervisor positions, and provides funds for critical equipment and facility improvement needs for the Western Carolina Center.	\$250,000	NR		
	6.00		6.00	

Human Resources

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Conference Report on the Continuation, Capital and Expansion Budgets

54 Autism Foundation Capital Funds				
Provides funds for the Autism Society's of N.C., Inc. Camp Royall capital project.	\$2,165,000	NR	\$0	NR
55 Tri-County Area Mental Health Realignment				
Provides \$1.2M in incentive funds and \$250,000 in one-time infrastructure funds for existing area mental health programs/authorities to facilitate the realignment of the three counties which currently comprise the Tri-County Area Authority with existing area authorities.	\$1,450,000	R	\$1,200,000	R
56 Secure Forensic Treatment Program				
Provides funds to create a secure, 72-bed forensic program at Dorothea Dix Hospital to provide treatment to individuals found mentally incompetent to stand trial or found guilty by reason of insanity and considered at-risk of escape and/or violent behavior.	\$1,072,283	R	\$2,487,975	R
	45.00		83.00	
57 Crisis Services Expansion				
Provides additional funding to continue development of local crisis services.	\$1,000,000	R	\$1,000,000	R
58 DHR Early Intervention Funds				
Provides additional funds for the Early Intervention Program for deaf and hard of hearing, visually-impaired, and developmentally delayed children.	\$2,700,000	R	\$5,000,000	R
59 Atypical & Antipsychotic Medications				
Provides additional funds for the purchase of atypical and antipsychotic medications for schizophrenic clients served by area mental health programs.	\$500,000	R	\$500,000	R
(13.00) Division of Social Services				
60 Child Welfare System Improvements				
Provides funds for new foster care and adoptions workers in local departments of social services.	\$2,269,752	R	\$2,269,752	R
61 Child Caring Institutions				
Provides additional funds to increase reimbursement rates for certain foster care facilities.	\$2,000,000	R	\$2,000,000	R
62 Adult Day Care Funds				
Provides funding for the expansion of the State Adult Day Care Program. These funds are combined with a \$1,655,750 allocation in Social Services Block Grant funds to provide start-up grants for new adult day care programs; conversion of adult day care to adult day health programs; and to provide slots for new programs and in counties with adult day care programs not currently receiving funding.	\$0	R	\$516,000	R
63 State Child Fatality Review Team				
Provides for the creation of a new State Child Fatality Review Team to conduct in-depth reviews of child deaths involving children and families which have previously been involved with local departments of social services child protective services.	\$159,000	R	\$163,000	R
	2.00		2.00	

Conference Report on the Continuation, Capital and Expansion Budgets

64 Adult Day Care Grant-In-Aid

Provides grant-in-aid to the L.I.F.E. Center, Inc. for an adult day care center. \$75,000 NR

65 Adolescent Parenting Program

Provides funds for an evaluation of the program and adds one additional position in 1998-99 for technical assistance to local programs. \$50,000 R \$50,000 R 1.00

66 Additional Funds for Food Banks

Provides grants-in-aid to support the following: \$1,350,000 NR \$0 NR

- A. (1) Albemarle Food Bank/Food Pantry, Inc. \$175,000
 (2) MANNA Food Bank, Inc. \$175,000;
 (3) Food Bank of Northwest NC, Inc. \$175,000;
 (4) Cumberland Community Action/Cape Fear Community Food Bank \$175,000;
 (5) Metrolina Food Bank, Inc. \$175,000; and
 (6) Food Bank, Inc. \$175,000

Funds are allocated as follows: 90% to purchase nutritious staple food items not received in sufficient quantities and 10% to offset the costs of transportation, handling, and distribution.

- B. Albemarle Food Bank/Food Pantry, Inc. - provides \$300,000 for capital improvements to food storage facilities.

(14.00) Division of Facility Services

67 Poison Control Center

Provides operating funds for the Poison Control Center at the Carolinas Medical Center. \$200,000 NR \$0 NR

(14.00) Office of the Secretary

68 Human Services Grants-In-Aid

Reserve for Grants-in-Aid to public and non-profit human services organizations for programs that provide services to older adults, adults with disabilities, at-risk children and youth and families. \$4,000,000 NR \$0 NR

(15.00) Division of Aging

69 Grant-In-Aid to Floyd McKissick Center

Provides a grant-in-aid to the Floyd McKissick Center located in Manson, N.C., to expand independent living services for older adults. \$75,000 NR \$0 NR

70 Home and Community Based Services Expansion

Provides additional funding to reduce waiting lists for in-home aid and caregiver support services to individuals over 60 years old. \$5,000,000 R \$5,000,000 R

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	\$100,000	R	\$170,930	R
71 Additional Positions				
Provides funds for two additional positions and replacement of lost federal funds. One position will provide program development, training, and information referral related to serving Alzheimer's patients and their families. The second position will be responsible for quality improvement, training, and technical assistance for local in-home aid and caregiver support service providers.	2.00		2.00	
72 Senior Centers	\$1,000,000	NR		
Provides funding to support existing senior centers and to assist in the development of new senior centers.				
(16.00) Division of Child Development				
73 TEACH Program Expansion	\$422,000	R	\$422,000	R
Provides funding for the expansion of the Teacher Education and Compensation Helps (TEACH) Program which provides education and compensation incentives for child care teachers.				
74 Child Care Regulatory Services	\$248,253	R	\$268,192	R
Provides additional regulatory staff positions to reduce caseloads and accommodate growth in number of regulated child care programs.	6.50		6.50	
76 Smart Start Expansion	\$21,408,625	R	\$25,298,838	R
Provides direct services funds for local partnerships, including the 12 "Year 4" partnerships, and planning funds for the remaining unfunded counties.	\$850,000	NR	\$0	NR
(17.00) Division of Vocational Rehabilitation				
76 Independent Living Rehab. Program Expansion	\$1,200,000	R	\$1,200,000	R
Provides additional funding and staff to alleviate the backlog of client needs at program offices statewide. Any funds for the purpose of new positions, not expended in 1997-98 for these positions, may be used for one-time service purchases for clients waiting for services.	\$500,000	NR	\$0	NR
	10.00		10.00	
(18.00) Division of Youth Services				
77 Training School Positions	\$200,000	R	\$200,000	R
Funds two teacher positions, two staff psychologist positions, and one recreational worker position to meet priority needs at the Juvenile Evaluation Center.	5.00		5.00	
79 Community-Based Alternatives Expansion	\$1,250,000	R	\$2,500,000	R
Provides funding to expand restitution programs statewide and to strengthen existing restitution and community services programs.				
79 Support Our Students Expansion	\$1,000,000	R	\$1,000,000	R
Provides funding to expand the program to 12 new counties and for limited expansion of existing programs.				

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80 Gatling Detention Center Expansion

Provides funding for construction and improvement to the
Gatling Juvenile Detention Center to house female juveniles.

\$1,127,850 NR

Total Legislative Changes	(\$18,391,125)	R	(\$16,911,436)	R
	(\$86,401,852)	NR	\$0	NR
Total Position Changes	71.60		110.60	
Revised Budget	\$2,282,070,434		\$2,525,207,859	

Correction

	GENERAL FUND	
	FY 97-98	FY 98-99
Recommended Budget	\$889,010,472	\$925,266,138

Legislative Changes

1 Out of State Housing of Inmates	(\$16,557,256)	R	(\$20,819,756)	R
The Governor recommended eliminating all funds in the continuation budget for housing inmates out of state on the premise that the inmates would be returned to North Carolina prisons at the end of 1996-97. However, upon further review, it was determined that inmates will not be returned until December, 1997 due to lack of State prison bedspace. The net result is that an additional \$4,262,500 is needed to fund out of state contracts so only \$16.557 million can be reduced the first year of the biennium.				
2 County Jail Contracts			(\$5,818,800)	R
The Governor recommended eliminating continuation funding for contracting with county jails to house State inmates on the premise that adequate bedspace would be available in State prisons in 1997-98. However, upon further review it was noted that adequate bedspace will not be available until the end of 1997-98. Therefore, the \$5,818,800 in the continuation budget is needed in 1997-98 for county jail contracts.				
3 Reserve for Private Beds	(\$2,900,000)	NR		
One-time reduction in the operating reserves for the two 500 bed private prisons. Delays in signing the final contracts have pushed back prison completion dates and delayed the need for a portion of the 1997-98 funding. Full funding is authorized in the 1998-99 budget.				
4 Reserve for Operating New Prisons	(\$9,500,000)	NR		
One-time reduction in 1997-98 operating reserves due to delays in completion of the Avery/Mitchell prison and the Albemarle Prison.				
5 Reduction in Inmate Food Budget	(\$5,000,000)	R	(\$5,000,000)	R
The Governor recommended a \$5,000,000 reduction in the inmate food budget due to system efficiencies that have lowered the cost per meal.				

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6 Reerve for Repeal of Prison Cap	(\$500,000)	R	(\$500,000)	R
In 1995, in anticipation of inmates staying in prison longer due to repeal of the prison cap, the General Assembly authorized funding for DOC to add prison beds -- both inside and outside of the State prison system. The funds remaining in the reserve, approximately \$2.1 million dollars, are for operating additional beds at Pasquotank, Central Prison and Marion. The reduction is based on over-estimating the total amount of funds needed when the budget was originally projected in 1995.				
7 Adjust Operating Budget for Probation and Parole	(\$3,700,000)	R	(\$3,700,000)	R
The operating budget was adjusted to a more realistic level of need. Line items affected include employee travel and per-diem, postage and printing, supplies, repairs, misc. contracts and materials.				
8 Title VII Program	(\$150,000)	R	(\$150,000)	R
In response to a federal lawsuit, the 1995 General Assembly funded 17 positions to implement and monitor improved recruitment, hiring, and promotional practices for females in the Department of Correction. The program has been fully implemented and reductions in positions and support are possible based on documented improvements in personnel practices.				
	-2.00		-2.00	
9 Further Reduction In Inmate Food Cost	(\$3,124,828)	R	(\$5,358,432)	R
Further reduction in the inmate food budget due to a more realistic projection of inmate average daily population during the 1997-99 biennium and to anticipated system efficiencies (e.g. statewide automation of food inventory system; newly standardized menus) that have lowered the cost per meal to 83 cents.				
10 Reduca Staff at Parole Commiaaion	(\$166,995)	R	(\$183,820)	R
Eliminate 6 positions at the Post-Release Supervision and Parole Commission due to declining numbers of inmates eligible for parole. These positions include 4 vacancies (2 clerical, 1 analyst and a special projects manager), 1 additional analyst and 1 additional clerical position. The elimination of nonvacant positions is effective October 1, 1997.				
	-6.00		-6.00	
11 Reserve -- Repeal Prison Cap -- Further Reduction	(\$79,568)	R	(\$79,568)	R
Additional funds that should have been deleted from the Prison Cap reserve were identified. Total reduction will be \$579,568.				
12 Title VII Program -- Further Reduction	(\$276,797)	R	(\$276,797)	R
The Governor reduced this program by \$150,000, including two positions. An additional reduction of 7 positions is possible because the department has made significant progress in hiring, recruitment and promotion of females. The program will retain eight positions to monitor department wide progress. (Span of Control Study)				
	-7.00		-7.00	

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13 Modular Housing -- Reduce Reserve

One-time reduction in reserve in 1997-98 due to delays in purchasing and siting modular housing units. (\$543,132) NR

14 Operating Cost for Inmate Work Crews

Fourteen inmate work crews are to be established at prison units where modular housing will be placed. Delays in siting modular units will delay starting the work crews so a one-time reduction in operating costs can be taken. (\$70,000) NR

15 Custody and Classification Unit

Reduce staffing from 17 positions to 10 since this unit will no longer be handling classification and movement of inmates housed out of state after inmates are returned to State prisons in December, 1997. The 1998-99 reduction includes elimination of \$300,000 for airfare for returning inmates from out of state prisons since they will be returned in 1997-98. (Span of Control Study) (\$219,935) R (\$519,935) R

16 Private Prisons -- Substance Abuse

The General Assembly authorized funding in 1994 to contract for 500 private prison treatment beds. To date, only contracts for 350 of the beds have been awarded. DOC indicates that with the impact of Structured Sentencing it will be difficult to keep 500 minimum security pre-release treatment beds full. It is recommended that a major portion of the funding for the additional 150 beds be eliminated, with a portion of the funds to be reallocated to a Reserve for Substance Abuse -- \$527,806 in 1997-98 to support DART-DWI (Cherry Hospital) aftercare programs and to conduct an evaluation study of DOC substance abuse programs and \$454,715 in 1998-99 for Dart - DWI aftercare programs (Cherry Hospital). (\$2,200,000) R (\$2,200,000) R

17 Prison Operating Reserve -- 87.5 Million Bond

Reduce positions and operating support for prisons constructed with funds from 1993 Bond. Reductions are based on reducing management levels and increasing employee to supervisor ratios as recommended in the Span of Control Study. (\$1,326,927) R (\$1,326,927) R
(\$1,288,633) NR -14.00

18 Prison Operating Reserves

Two actions were taken to reduce this reserve - recurring reductions based on the Span of Control Study and non-recurring reductions based on delays in prison completion for Impact East (Female) and Albemarle and Avery/Mitchell. (\$1,436,110) R (\$1,436,110) R
(\$962,897) NR -30.00

19 Span of Control Study -- Department wide

Eliminate 18 positions department-wide. These positions were identified as part of the Span Of Control Study. (\$1,059,349) R (\$1,059,992) R
-18.00

20 Polk Youth Institution

Reduce inmate operating costs for old prison (food, clothing, medical). (\$1,320,181) R (\$1,320,181) R

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21 Private Prisons Reserve – Further Reduction

The Governor reduced this reserve by (\$2,900,000) due to delays in signing private prison contracts which changed construction completion dates. An additional one-time reduction was taken based on a revised completion date for the two 500 bed facilities. Dates were changed from 2/98 to 5/98 for Pamlico and 5/98 to 8/98 for Avery/Mitchell. The construction/lease contract has now been signed.

(\$1,646,952) NR (\$641,824) NR

22 Reimbursement for Housing Aliens

Correction receives funding from the federal government for housing inmates who are illegal aliens. The DOC anticipates additional federal funds so the General Fund can be reduced to reflect increased receipts.

(\$670,000) R (\$670,000) R

23 Salary Reserve

Reduce salary reserve (funds generated by filling positions at salaries lower than budgeted).

(\$628,000) R (\$628,000) R

24 Health Services Budget

Based on revised projections of the average daily prison population, the Correction Health Services budget can be reduced.

(\$2,357,972) R (\$3,088,686) R

25 Close GPAC Prison Units

The General Assembly has closed or converted 16 of the 30 prison units originally identified in the GPAC study as being costly and inefficient to operate. It is recommended that Davie Correctional Center, which cost \$89.40 per day to operate in 1995-96 compared to the statewide average of \$62 for medium security units, should be closed effective November 1, 1997.

(\$1,345,894) R (\$1,935,355) R

-58.00 -58.00

26 Gullford Diagnostic Center

Due to declining prison admissions, the General Assembly closed one inmate intake and diagnostic center in 1996-97 -- Southern Reception Center. The decline in admissions has continued and one additional diagnostic center is recommended for closing.

(\$112,510) R (\$133,275) R

-5.00 -5.00

27 Title VII Program – Reserve Fund

The General Assembly authorized a \$5.5 million dollar reserve for payment to claimants as part of the settlement of the Title VII lawsuit. It now appears that it will be at least 1998-99 before all claims are received so the amount needed to pay claims cannot be determined at this time.

(\$5,500,000) NR

28 Salary Reserve – Further Reduction

This additional reduction would still leave Correction with approximately 25% of their salary reserve.

(\$872,000) R (\$872,000) R

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29 Reduce Reserves for Structured Sentencing	(\$1,483,406) R	(\$2,728,420) R
Reduction of amount in reserves for new probation parole staff due to structured sentencing. The Governor recommended \$9,549,573 in 1997-98 and \$12,931,298 in 1998-99 to expand staff. The cost is reduced because of changes in the projected supervised population and to reflect a phase-in of the intermediate punishment officer reduced caseloads. Target statewide caseloads for intermediate officers will fall to 80 in 1997-8 and 70 in 1998-9. Funding will allow addition of 25 intensive teams, 145 officers, 21 clerks and 17 chief probation parole officers. Positions will be phased in between October 1, 1997 and January 1, 1998.	(\$211,453) NR	(\$213,618) NR
	-15.00	-47.00
30 ECO, Inc. Aftercare Program	\$100,000 NR	
Funds to establish a transitional residential program in Hecklenburg County for women leaving prison. The program will be run by Energy Committed to Offenders, Inc.		
31 Additional Road Squads	\$515,915 R	\$781,689 R
Funding to add additional medium security inmate road squads at prisons recently completed or opening in 1997-98 -- Hyde and Warren -- as well as Wayne Correctional Center. These road squads will be assigned to work with the Department of Transportation to help maintain the state's highways. The recurring funds are for correctional officers to supervise these medium security inmates (Ratio of 1 officer for every four inmates). Positions are effective 11/1/97.	\$400,000 NR	
	27.00	27.00
32 Women at Risk Program	\$125,000 R	\$125,000 R
Funds for the Women at Risk Program based in Buncombe County to provide non-residential treatment and supervision for female probationers. The program has been supported with nonrecurring funds since 1994-5.		
33 Additional Supervision for Sex Offenders	\$150,843 R	\$258,588 R
Funds for 6 additional probation parole officers to allow closer supervision of sex offenders. Additional staff will allow some officers to carry lower caseloads. Positions begin December 1, 1997.	\$34,632 NR	
	6.00	6.00
34 County Jail Reimbursement -- State Misdemeanants		\$1,912,553 R
County jails are required by statute to house state misdemeanants with sentences of 30 to 90 days. County jails are reimbursed at the rate of \$14.50 a day for each inmate. Funds provided would enable the State to increase the payment from \$14.50 to \$18.00 a day, effective September 1, 1997. First year payments will be from funds available to the Department, with amount needed estimated at \$1,587,419.		
35 Reserve for Enhanced Criminal Penalties		\$135,000 NR
Reserve for funding additional prison beds, if needed, due to criminal penalty bills included in this budget. Bill effective dates are 12/1/97; any potential fiscal or bed impact would be in 1998-99.		

Correction

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Total Legislative Changes	(\$43,795,970)	R	(\$56,728,224)	R
	(\$22,088,435)	NR	(\$720,442)	NR
Total Position Changes	-129.00		-161.00	
Revised Budget	\$823,126,067		\$867,817,472	

Crime Control and Public Safety

GENERAL FUND

FY 97-98

FY 98-99

\$33,548,678

\$33,530,244

Recommended Budget

Legislative Changes

36 Administration – SOC-Expanded Definition	(\$68,510)	R	(\$68,510)	R
Reduces funds for internship by \$34,124 (Student Temporary Wages). Reduces salary reserves by \$12,804. Eliminates \$21,582 for Indirect Cost Receipts. All of these reductions were based on recommendations by the Span of Control Study.				
37 Emergency Management – SOC-Expanded Definition	(\$17,202)	R	(\$17,202)	R
Reduce funding of Hazardous Materials Response Teams to local governments by \$17,202 to amount actually needed (\$382,798 remains in continuation budget).				
38 Victim & Justice Services – Span of Control	(\$46,604)	R	(\$46,604)	R
Eliminate 1 supervisory position based on recommendations of the Span of Control Study.				
	-1.00		-1.00	
39 Gov's Crime Commission – SOC-Expanded Definition	(\$43,797)	R	(\$43,797)	R
Reduce state agency matching funds for use by the Department of Crime Control and Public Safety or other state agencies to match Governor's Crime Commission Grants (\$150,398 remains in continuation budget).				
40 Crime Prevention – Span of Control	(\$96,419)	R	(\$96,419)	R
Eliminate 2 Community Development Specialists positions as recommended by the Span of Control Study.				
	-2.00		-2.00	
41 Drug Enforcement Grants- State Agency Match	(\$70,398)	R	(\$70,398)	R
Reduces funds by \$70,398 for grant matching monies that other State departments and agencies use for Governor's Crime Commission grants relating to drug enforcement. (\$80,000 remains in the continuation budget for the Department of Crime Control and Public Safety to use as their matching funds for grants.)				
42 Additional Community Service Coordinators	\$92,549	R	\$158,665	R
Fund 5 additional community service work program coordinators to be allocated according to workload. All positions are effective 12/1/97.				
	\$15,830	NR		
	5.00		5.00	

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43 CJIN Hardware/Software	\$0	R	\$0	R
Provide \$156,600 of recurring funds to lease equipment space and telephone lines at 30 new tower sites along the interstate highway system. Provide \$2,250,000 of nonrecurring funds to establish Data Ready Base Stations, Base Station Antennas, and RF Transmission Facilities for 30 new tower sites along the interstate highway system. Also provide \$1,700,000 in nonrecurring funds for the purchase of 200 Mobile Data Computers for Highway Patrol vehicles. These computers will be added to patrol vehicles that are stationed along the interstate highway system. (All funds for these portions of the Criminal Justice Information Network project are provided by the Highway Fund.)	\$0	NR	\$0	NR
44 Emergency Management Personnel	\$87,415	R	\$149,851	R
Provides funding for 3 new positions within the Division of Emergency Management. These positions include one Planner I position, a Budget/Finance Officer position, and a Disaster Recovery Manager. Positions are effective December 1, 1997.	\$27,000	NR	3.00	3.00
45 Highway Patrol Helicopters	\$0	R	\$0	R
Provide funds from the Highway Fund to move two State Highway Patrol Helicopters to Asheville and Kingston. Recurring funds for operation, maintenance, and flight time total \$103,660.				
46 National Guard Maintenance Funds	\$125,000	R	\$125,000	R
Provide funds for repairs and maintenance of National Guard Armories. These funds will be used to address the National Guard's backlog of requests for repairs and maintenance of armories.				
47 National Guard Tuition Assistance	\$100,000	R	\$100,000	R
Funds to increase the amount and number of educational assistance benefits for members of the National Guard.				
48 Crimestoppers Program	\$15,000	NR		
Non-recurring funds in the amount of \$15,000 to fund Crimestoppers of Cumberland County, a local, non-profit organization.				
Total Legislative Changes	\$62,034	R	\$190,586	R
	\$57,830	NR	\$0	NR
Total Position Changes	5.00		5.00	
Revised Budget	\$33,668,542		\$33,720,830	

Judicial

GENERAL FUND

	FY 97-98		FY 98-99	
Recommended Budget	\$310,944,929		\$316,264,917	
Legislative Changes				
49 Salary Reserve Funds	(\$1,800,000)	R	(\$1,800,000)	R
Reduce Department's available salary reserve funds - these funds are generated by filling positions at a salary less than the budgeted salary authorized by the General Assembly.				
50 Wayne Dispute Settlement Center Funds	(\$5,000)	R	(\$5,000)	R
Eliminate state funds for the Wayne Dispute Settlement Center since the Center discontinued operations on July 1, 1995.				
51 Indigent Defense Funds	(\$2,238,195)	R	(\$3,047,242)	R
Based on projections completed in September 1996, the Judicial Department anticipated needing an additional \$6,073,533 in FY 1997-98 and \$8,750,380 in FY 1998-99 for legal counsel of indigent defendants. These projections were updated in July 1997 and the Department determined expenditures in capital cases were lower than originally anticipated and that receipts from indigents were being collected at a higher rate. It is estimated that increases of \$3,835,338 in FY 1997-98 and \$5,703,138 in FY 1998-99 are more likely which allow for a reduction of \$2,238,195 and \$3,047,242 respectively.				
52 Mecklenburg Drug Court Program	(\$13,394)	R	(\$13,394)	R
Reduce the net State appropriation for this program by increasing receipts received from Mecklenburg County to reflect the 25% local match.				
63 Drug Treatment Court Pilot Program			(\$52,551)	R
Eliminate funding for the Program Administrator position in FY 1998-99 since the program sunsets on June 30, 1998.				
			-1.00	
64 Equipment Replacement	\$319,236	R	\$319,236	R
Statewide funding to replace worn and outdated office equipment, computer equipment, and other related areas.				
	\$3,600,000	NR		
65 Access to Civil Justice	\$1,000,000	NR		
Provide additional funds to the North Carolina Bar for representation of indigents in civil cases.				

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56 Center for Death Penalty Litigation				
Provide additional funds to the Center for Death Penalty Litigation who provides training, consultation, brief banking, and other assistance to attorneys representing indigent capital defendants.	\$250,000	NR		
57 Reserve for Technology	\$983,161	R	\$1,437,176	R
Funds to establish a reserve for technology that includes funding for new automated systems (e.g. magistrate criminal information system); expansion of existing systems (e.g. district attorney/public defender automated case management system), new hardware/software, and new technology support personnel. Funds for personnel include funding for 5 Analyst Programmers, 5 LAN Support Specialists, 2 PC Support Specialists, 1 System Accountant, 1 Voice Data Specialist, and 1 Help Desk Specialist. All positions are effective 12/1/97. (Special provision requires task force study and report prior to expenditure of funds).	\$4,306,470	NR		
	15.00		15.00	
58 Data Center Upgrades	\$125,000	R	\$125,000	R
Funds for additional frame relay lines which allow data to be transmitted more efficiently between the central criminal information system and offices statewide.				
59 LAN Connectivity Funds				
Provide funds to connect existing local area networks in Hecklenberg County to allow for sharing of information between court officials.	\$50,000	NR		
60 District Attorney Support Staff	\$2,221,415	R	\$3,551,439	R
Provide funds for 105 Assistants for Administrative and Victim and Witness Services for District Attorneys Offices statewide. Funding for 45 of these positions is placed in a reserve and shall be expended if the Crime Victims' Right Act is enacted during the 1997 Regular Session. Also provides funds for 3 investigator positions to be assigned to Districts 24, 27B, and 68. All positions are effective 12/1/97.	\$558,728	NR		
	108.00		108.00	
61 Assistant District Attorneys	\$2,069,172	R	\$3,543,696	R
Provide funding for 54 additional Assistant District Attorney positions effective 12/1/97.	\$53,460	NR		
	54.00		54.00	
62 Clerks of Superior Court	\$1,482,300	R	\$2,543,200	R
Provide funding for 100 additional deputy clerk positions effective 12/1/97. The Department shall distribute deputy clerk positions equitably, with no county receiving more than two additional positions.	\$110,900	NR		
	100.00		100.00	
63 Magistrate Positions	\$156,888	R	\$261,064	R
Provide funds for 8 additional magistrate positions to be located in the following counties -- Edgecombe, Wayne, Wilson, Franklin, Durham, Columbus, Gaston, and Cumberland. All positions are effective 12/1/97.	\$41,816	NR		
	6.00		6.00	

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64 Guardian Ad Litem Attorney and Training Manual	\$39,703	R	\$67,027	R
Provide funds to add one attorney who would serve as a central resource for Guardian Ad Litem contract attorneys. Most of the nonrecurring funds would be used to develop, publish, and distribute a Guardian Ad Litem abuse and neglect litigation manual for attorneys throughout the state and to conduct follow-up training. The attorney position is effective 12/1/97. This item was recommended by the Guardian Ad Litem Study Commission.	\$19,924	NR	\$11,725	NR
	1.00		1.00	
65 District Court Judges	\$392,628	R	\$658,014	R
Provide funds for 6 additional District Court Judges to be located in Districts 15B, 20, 22, 38, 24, and 13. All positions are effective 12/1/97.	\$55,350	NR		
	8.00		8.00	
66 Criminal Case Docket Management	\$322,774	R	\$401,310	R
The District Attorney criminal case docket management program was funded as a pilot project in 2 districts in FY 1995-97. This program is designed to help reduce case backlog and to move cases more quickly through the court system. The FY 1997-99 funding makes the 2 pilot programs permanent (Cumberland -- District 12 and Bladen/Brunswick/Columbus -- District 13) and expands the program into eight additional districts.	\$46,672	NR		
	10.00		10.00	
67 Court Reporters in Superior Court	\$206,216	R	\$353,104	R
Provide funds to reestablish 8 vacant positions eliminated in 1995 to meet court reporting needs in superior court. All positions are effective 12/1/97.	8.00		8.00	
68 District Court Civil Case Management Pilot	\$118,500	NR		
Provide funds to continue pilot programs in Districts 13, 18, and 30, which assist district court judges with case management and setting of court calendars in civil cases.	3.00			
69 Custody Mediation Program	\$225,000	R	\$225,000	R
Provide funds to expand the custody mediation program to additional district court districts. The program would be operational in 25 of 39 districts.				
70 Transfer Indigent Defense Funds for Assistant PD's	\$0	R	\$0	R
Allows the Department to transfer up to \$314,240 in FY 1997-98 and \$524,384 in FY 1998-99 from the Indigent Persons' Attorney Fee Fund to fund 8 additional Assistant Public Defender positions. All positions are effective 12/1/97.	8.00		8.00	
71 Juvenile Court Counselors	\$701,025	R	\$1,200,100	R
Provide funds for additional intake, probation / aftercare, and intensive juvenile court counselors to assist in getting caseloads to a more manageable level. All positions are effective 12/1/97.	\$32,875	NR		
	25.00		25.00	

Judicial

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72 Community Penalties	\$450,000	R	\$450,000	R
Provide funds to expand the Community Penalties Program to 4 additional districts. This allows the program to extend statewide by the end of the biennium. Funds are also included to allow expansion of several existing programs based on workload.				
73 Arbitration Program	\$99,232	R	\$164,329	R
Provide funds to expand the superior court arbitration program to 5 additional districts. The program would be operational in 30 of 45 superior court districts.				
	\$10,710	NR		
	2.00		2.00	
74 Additional Supply Funds	\$100,000	R	\$100,000	R
Provide additional funds for general office supplies which would be distributed statewide based on need.				
75 Annual Recidivism Study	\$4,000	R	\$4,000	R
Provide funds for the Sentencing and Policy Advisory Commission to cover the operating expenses of researching and publishing an annual report on offender recidivism.				
76 Dispute Settlement Center Funds	\$55,000	R	\$55,000	R
Provides additional funds to the Mediation Center of the Southern Piedmont (\$25,000) to allow for expansion to Lincoln and Cleveland Counties, as well as additional funds for the Rockingham Mediation Center (\$5,000). Also provides \$25,000 for a new center in Catawba County.				
77 Court of Appeals Staff / Business Court Assistant	\$77,028	R	\$130,119	R
Provide funds for one additional staff attorney and appellate clerk for the Court of Appeals. Also provides funds for a legal assistant to assist the Business Court Program. All positions are effective 12/1/97.				
	\$17,620	NR		
	3.00		3.00	
78 Judicial Assistant Position	\$23,618	R	\$39,500	R
Provide funds for one judicial assistant to assist judges located in Davidson County in District 22. The position is effective 12/1/97.				
	\$6,296	NR		
	1.00		1.00	
79 Project Challenge Funds	\$100,000	NR		
Provide funds for Project Challenge Inc., a nonprofit organization which provides alternative dispositions and services to juveniles in Districts 24 who have been adjudicated delinquent or undisciplined. These funds will also allow for expansion into District 30.				
80 District Court Legal Assistant	\$24,126	R	\$31,879	R
Provide funds for a legal assistant position to be assigned to the Chief District Court Judge in District 9A. The position is effective 10/1/97.				
	\$5,659	NR		
	1.00		1.00	

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81 Teen Court Funds	\$83,660	R	\$83,660	R
Provide recurring funds to establish teen court programs in Orange (\$15,000), Columbus (\$20,000), Brunswick (\$20,000), Forsyth (\$14,330), and Cabarrus (\$14,330) Counties. Also provides \$15,000 in nonrecurring funds in FY 1997-98 for programs in Wake and Durham Counties. Teen courts provide a peer review of juveniles who have committed non-violent misdemeanors and recommend different types of punishment, including community service and restitution.	\$30,000	NR		
82 Bad Check Pilot Program	\$150,000	NR		
Provide funds for five positions to establish a bad check pilot program in Rockingham, Durham and Columbus Counties. These programs are designed to reduce the amount of time spent prosecuting these cases, and to assist worthless check victims in recovering restitution.	5.00			
83 Juvenile Assessment Project	\$150,000	NR		
Provide funds to establish a juvenile assessment advisory board and center in District 12. The funds would be used to establish an advisory board who would make recommendations to the AOC on how to facilitate prevention and intervention services to at-risk juveniles.				
84 Adult / Juvenile Violent Offender Task Force	\$50,000	NR		
Provide funds for the Adult / Juvenile Violent Offender Task Force located in District 10. These funds are used to prosecute serious violent offenders more quickly through the court system.				
Total Legislative Changes	\$8,104,683	R	\$10,825,666	R
	\$10,764,981	NR	\$11,725	NR
Total Position Changes	358.00		349.00	
Revised Budget	\$327,814,503		\$327,102,306	

Justice

GENERAL FUND

Recommended Budget

FY 97-98

\$61,166,247

FY 98-99

\$63,233,877

Legislative Changes

85 SBI - Vehicle Replacement	(\$317,500)	R	(\$78,000)	R
Replace vehicles for the State Bureau of Investigation on a schedule of 80,000 miles for automobiles and 90,000 miles for trucks. 25 fewer vehicles will be replaced in FY 1997-98 and 11 fewer vehicles in FY 1998-99. The net reduction includes increasing maintenance expenses by \$2,000 per automobile and \$3,000 per truck, as well as decreasing expected receipts due to the sale of fewer vehicles.				
86 SBI Overtime Pay Adjustment	(\$806,004)	R	(\$606,004)	R
Reduce funds used to pay overtime to State Bureau of Investigation sworn law enforcement officers. Priority for overtime pay will be given to field agents before supervisory agents. (\$606,004 will remain in the continuation budget for overtime pay.)				
87 Adjustment for Increased DCI Receipts - SBI	(\$200,000)	R	(\$200,000)	R
Adjustment in the continuation budget of the State Bureau of Investigation due to an increase in the amount of receipts collected by the Division of Criminal Information. Since there has been an increase in the amount of Criminal Records Checks performed by the Division of Criminal Information, more receipts will be realized than anticipated.				
88 Structured Sentencing Statewide Reserve	(\$400,000)	R	(\$400,000)	R
Reduce funds in the statewide reserve entitled Structured Sentencing. This reserve was intended to be labeled/named Criminal Justice Information Network Reserve. These funds were intended to initiate the operation of the Criminal Justice Information Network board and to begin the development of data sharing standards. Over \$300,000 remains in the continuation budget for use by the Criminal Justice Information Network board for board expenses and the development of data sharing standards.				
89 Criminal Justice Information Network	\$1,000,000	NR		
Continue funding of the Criminal Justice Information Network. These funds will be used to continue developing data sharing standards and to upgrade the Automatic Fingerprinting Identification System.				

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90 General Administration Positions	\$63,567	R	\$84,756	R
Fund one Paralegal II as a research technician for the Legal Services Division and one Accounting Technician III in the Administrative Services Division. Both positions are effective 10/1/97.	\$9,240	NR		
	2.00		2.00	
91 SBI-DCI Technology Improvements and Staff	\$107,152	R	\$183,688	R
Provide funds to establish five new positions, effective December 1, 1997, within the Division of Criminal Information of the State Bureau of Investigation. Positions funded will include two computer consultants, two fingerprint technicians, and one processing assistant. Provide \$77,500 in nonrecurring funds to procure an uninterrupted power supply unit, and \$50,000 to begin development of a disaster recovery plan for the Division's computer system.	\$158,000	NR		
	5.00		5.00	
92 Reserve for Sex Offender Registry	\$12,253	R	\$24,506	R
Provide funds to develop various changes to the current Sex Offender Registration Program and associated automated files. Funds will allow for the hiring of consultants to develop the program as well as to provide for the purchase of computer hardware and software. This will allow the registry, including photographs of sex offenders, to be placed on the Internet. One clerical position is effective January 1, 1998.	\$164,810	NR		
	1.00		1.00	
93 Sheriff's Standards Division Support Staff	\$22,076	R	\$37,843	R
Funds for an administrative assistant for the Sheriffs' Standards Division and Law Enforcement Liason Section to meet the statutory responsibilities of the Sheriffs' Education and Training Standards Division. Position begins December 1, 1997. Appropriation includes funds for computer equipment to allow automation of field testing in their training programs.	\$23,500	NR		
	1.00		1.00	
94 DARE Expansion Funds	\$113,300	NR		
Provide funds to the State Bureau of Investigation to train additional local law enforcement officers to bring the Drug Abuse Resistance Education Program (DARE) into 7th and 9th grade classrooms.				
95 Training and Standards Attorney	\$58,116	R	\$58,116	R
Fund an Attorney II position effective July 1, 1997 to represent the Department of Correction on correctional officer certification issues before the Training and Standards Commission. Position has previously been funded by a contractual arrangement with the Department of Correction.				
	1.00		1.00	
96 Consumer Protection Attorney	\$51,637	R	\$68,850	R
Fund an Attorney III position to handle antitrust cases in the Citizens' Rights Division, effective 10/1/97.	\$6,000	NR		
	1.00		1.00	

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97 Legal Services -Information Systems				
Provide funds to complete the Department's transition to a local area network (LAN).Currently only 3 of the 5 Legal Services Divisions are connected.	\$150,000	NR		
98 Capital Litigation Unit				
Fund 2 Attorney IV positions and 1 Processing Assistant position in the Capital Litigation Unit of the Criminal Division, effective 10/1/97.	\$198,218	R	\$264,290	R
	\$15,060	NR		
	3.00		3.00	
99 SBI Field Agents				
Provide funds to hire 16 new field agents for the State Bureau of Investigation. Recurring funds in the first year are based on 12/1/97 hiring date.	\$453,376	R	\$777,072	R
	\$277,424	NR		
	16.00		16.00	
100 SBI - Pay Equity				
Funds to provide salary equity adjustments for sworn law enforcement officers in the State Bureau of Investigation.	\$2,700,000	R	\$2,700,000	R
101 Western Justice Academy				
Funds for personnel, operations, and start-up costs for the Western Justice Academy. These funds will allow the Western Justice Academy to begin operations in January 1998. Funds are already provided in the continuation budget for FY 1998-99. Classes will begin in July of 1998.	\$491,155	R		
	\$2,492,482	NR		
	26.00			
102 Standards for Telecommunicators				
Funds for the Sheriffs' Education and Training Standards Commission to establish minimum employment, training and retention standards for telecommunicators. Three positions are created effective December 1, 1997; a processing assistant, a criminal justice instructor-coordinator, and a criminal justice research associate.	\$77,135	R	\$132,231	R
	\$24,500	NR		
	3.00		3.00	
103 Accident Victim Identification Training				
Funds for the Justice Academy and the Criminal Justice Education and Standards Commission to develop a training curriculum for local law enforcement on the timely identification of accident victims and the facilitation of identification of potential organ donors.	\$25,000	NR		
104 Safe Neighborhoods Initiative				
Funds to continue the Safe Neighborhoods Initiative that assists communities with community policing, child ID projects and other crime prevention programs. The program is supported with federal funds through July 1997. These funds continue 4.5 of the 6 current positions at the discretion of the department.	\$200,000	R	\$218,180	N
	4.50		4.50	
105 NC LEAF Funds				
Provide funding to the NC Legal Education Assistance Foundation to assist with loan repayment for public service attorneys. Funds flow through the Department of Justice to NC LEAF, a nonprofit organization.	\$100,000	NR		

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106 Training & Standards - Justice Academy (Salemberg)

Provide recurring funds to establish a program for the Certification and Training Section of the Criminal Justice Standards Division. This program will enable the Division to locate and interview applicants, certified officers, and witnesses involved in investigations of violations of training delivery and certification rules. Five positions are created effective December 1, 1997.

\$205,428 R \$266,447 R

5.00 5.00

Total Legislative Changes

\$3,116,609 R \$3,531,975 R

\$4,559,316 NR

Total Position Changes

68.50 42.50

Revised Budget

\$68,842,172 \$66,765,852

Housing Finance Agency

GENERAL FUND

	FY 97-98	FY 98-99
Recommended Budget	\$2,300,000	\$2,300,000
<hr/>		
Legislative Changes		
Housing Finance Agency		
1 Housing Trust Fund		
Support for the Housing Trust Fund.	\$5,000,000	NR
<hr/>		
Total Legislative Changes	\$5,000,000	NR
Total Position Changes		
Revised Budget	\$7,300,000	\$2,300,000

Agriculture and Consumer Services

GENERAL FUND			
	FY 97-98		FY 98-99
Recommended Budget	\$49,480,730		\$49,688,983
Legislative Changes			
Agricultural Finance Authority			
2 Reduce General Fund Appropriation			
Reduce the General Fund appropriation to the Authority by utilizing the interest income earned by the Farm Reserve Loan Fund for the Authority's operating expenses.	(\$25,000)	R	(\$50,000) R
Agronomic Services			
3 Agronomic Advisory Services			
Funds to increase waste disposal and water management services provided by the Agronomics Division to meet the demand for increased technical assistance from regional agronomists and section chiefs.	\$314,767	R	\$445,117 R
	\$217,151	NR	
	7.00		8.00
Commissioner's Office			
4 Small Farms Assistance			
Funds to provide assistance to small, family farms.	\$50,000	NR	
Food and Drug Protection			
5 Food Related Facilities Funds			
Funds to continue support for inspection of food processing facilities, food storage warehouses, retail stores, and medicated livestock-feed manufacturing facilities.	\$113,994	R	\$113,994 R
	4.00		4.00
6 Environmental Protection In Pesticide Applications			
Funds to increase compliance assistance to pesticide applicators and farmers.	\$179,039	R	\$179,039 R
	\$23,100	NR	
	3.00		3.00

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Grants-In-Aid

7 Haywood County Agri-Center

Funds for the Haywood County Agri-Center.

\$200,000 NR

8 Stanly County Agri-Center

Funds for the Stanly County Agri-Center.

\$50,000 NR

9 Fair and Exhibition Center

Funds for a fair and exhibition center.

\$1,000,000 NR

Maritime Museum

10 Transfer Maritime Museum to Cultural Resources

Transfer positions, operating support, equipment, property, and other assets of the North Carolina Maritime Museum to the Department of Cultural Resources.

(\$792,227) R (\$786,713) R

	FY 1997-98	FY 1998-99
Requirements	\$ 792,527	\$ 787,013
Receipts	(\$ 300)	(\$ 300)
Appropriation	\$ 792,227	\$ 786,713

-17.25

-17.25

Marketing

11 Grant-in-Aid

Increase grant-in-aid to the Western North Carolina Development Association.

\$37,000 R \$37,000 R

Plant Industry - Plant Protection

12 Bee Regulatory Support

Funds for expanded regulatory support to protect the North Carolina bee and honey industry from parasitic mites, bee disorders and the Africanized bee.

\$170,212 R \$170,212 R
\$45,894 NR

2.00

2.00

Agriculture and Consumer Services

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Reserves

13 Southern Dairy Compact			
Funds to support the Southern Dairy Compact Commission.	\$25,000	R	\$25,000 R
Funds are contingent upon the passage of HB 998, SB 977, or similar legislation.			
<hr/>			
Total Legislative Changes	\$22,785	R	\$133,649 R
	\$1,586,145	NR	
Total Position Changes	-1.25		-0.25
Revised Budget	\$51,089,660		\$49,822,632
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Labor

GENERAL FUND

Recommended Budget

FY 97-98

\$18,068,855

FY 98-99

\$15,986,184

Legislative Changes

Boiler and Pressure Vessel Bureau

14 Expand Inspection Staff with Receipt Support

Adds four boiler and pressure vessel inspection staff to conduct safety inspections in accordance with inspection intervals set by the Commissioner. Funding support will be provided with increased receipts generated by inspections conducted with these additional positions.

	FY 1997-98	FY 1998-99
Requirements	\$ 211,316	\$ 196,316
Receipts	(211,316)	(196,316)
Appropriation	0	0

Elevator and Amusement Device Bureau

15 Expand Inspection Staff with Receipt Support

Adds four elevator inspection staff and one administrative support position to conduct safety inspections -- at six month intervals -- of all elevators in the state. Funding support will be provided with increased receipts generated by these positions assisting in the increased frequency of elevator inspections from an average of every 10 months to every 6 months.

	FY 1997-98	FY 1998-99
Requirements	\$ 248,061	\$ 228,361
Receipts	(248,061)	(228,361)
Appropriation	0	0

Information Office

18 1-800-LABOR-NC Operating Support

Provides an additional position and operating support to answer incoming calls on the Department's toll-free telephone number.

\$34,825	R	\$34,825	R
\$5,000	NR		
1.00		1.00	

Labor

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OSHNC Division

17 Transfer Enforcement Positions to Federal Support			
Shifts six OSH Enforcement positions (3 full-time equivalents) and operating support from 100% state funding to 50% federal and 50% state funded support.	(\$192,546)	R	(\$192,546) R
	-3.00		-3.00
Total Legislative Changes	(\$157,721)	R	(\$157,721) R
	\$6,000	NR	
Total Position Changes	-2.00		-2.00
Revised Budget	\$15,917,134		\$15,828,463

Environment, Health, and Natural Resources

GENERAL FUND

Recommended Budget

FY 97-98

\$253,269,888

FY 98-99

\$252,502,338

Legislative Changes

(2.00) Environmental Education

18 Environmental Education Grant Fund

Funds to provide grants to schools, community organizations and environmental education centers to develop environmental education libraries and to promote environmental education activities.

\$200,000 NR

(2.00) Forest Resources

18 Increase Receipts

Increase receipts collected from counties. Counties share in the cost of forestry operations with a match based on the tax base of the county.

(\$120,000) R (\$120,000) R

20 Assistant County Ranger

Funds for an Assistant County Ranger in District 10.

\$19,028 R \$19,028 R

\$21,900 NR 1.00 1.00

21 Operation of Amphibious Water Scooping Tanker

Operating funds for personnel, equipment, maintenance, and parts associated with the purchase of an amphibious water scooping tanker aircraft for fire control statewide.

\$706,950 R \$706,950 R

\$81,750 NR 4.00 4.00

22 District 12 Helicopter Funds

Funds to cover the costs associated with preparing a federal surplus helicopter for fire control in District 12.

\$282,560 NR

23 Equipment Funds

Reduce recurring appropriation for forestry field operations equipment and provide nonrecurring funds for FY 1997-98.

(\$500,000) R (\$500,000) R

\$500,000 NR

24 Communications Equipment

Reduce recurring appropriation for communications equipment and provide nonrecurring funds for FY 1997-98.

(\$200,000) R (\$200,000) R

\$150,000 NR

Environment, Health, and Natural Resources

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25 Rural Community Fire Protection Program

Funds to provide both fire training and assistance with the purchase/loan of fire equipment and supplies for rural fire departments.

\$100,000	R	\$100,000	R
1.00		1.00	

26 Museum of Forestry

Grant-in-aid to Columbus County for planning and developing a Museum of Forestry.

\$1,000,000	NR
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(2.00) Marine Fisheries

27 Moratorium Steering Committee

Eliminate funding for the Fisheries Moratorium Steering Committee, which submitted its final report to the Joint Legislative Commission on Seafood and Aquaculture in October 1996.

(\$25,000)	R	(\$25,000)	R
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28 Reduce Marine Fisheries Patrol Equipment

Reduce equipment budget to reflect reduced equipment needs associated with the Marine Fisheries law enforcement expansion request funded in 1995, in accordance with the five year fiscal estimate submitted by the division.

(\$187,321)	R	(\$187,321)	R
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29 Operating Reserve for Patrol Vessel

Fund vessel operating reserve for the 1998-99 fiscal year. The reserve is for a patrol vessel funded with a 1996-97 capital improvement appropriation and was omitted from the continuation budget by error.

\$97,436	R
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30 Marine Fisheries Commission

Funds to establish standing advisory committees and permanent staff for the Marine Fisheries Commission. The Department shall transfer \$25,000 of these funds to the Office of the State Auditor for a performance audit of the Division. Funds contingent upon passage of HB 1097.

\$230,475	R	\$230,475	R
\$17,000	NR		
2.00		2.00	

31 Information Technology and Data Management Funds

Funds to establish advanced computer based technologies to modernize and consolidate existing computerized information management, and expand computer based data management and analysis capabilities.

\$155,000	R	\$155,000	R
\$500,000	NR		
2.00		2.00	

(2.00) Museum of Natural Sciences

Environment, Health, and Natural Resources

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32 Grassroots Science Museums

Additional funds for Grassroots Science Museums and to add two new museums to the program:

\$100,000	R	\$100,000	R
\$2,650,000	NR		

Museum of Coastal Carolina
Iredell County Children's Museum

(2.00) Parks and Recreation

33 Environmental Education Learning Experience

Funds to provide supplies and materials for Environmental Education Learning Experience (EELE) programs at state parks.

\$30,000	NR		
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34 Reduce Operating Reserve

Reduce operating reserve for State Parks System.

(\$300,000)	NR		
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35 Adopt-a-Trail Program

Nonrecurring funds to expand the Adopt-a-Trails grant program.

\$50,000	NR		
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36 Law Enforcement Salary Adjustment

Funds to adjust the average salary of law enforcement officers in Parks and Recreation based on the average salary of law enforcement officers in the Division of Marine Fisheries and the Wildlife Resources Commission.

\$677,599	R	\$677,599	R
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(2.00) Soil and Water Conservation

37 Area 3 Coordinator

Funds to support a new position and equipment needs of a regional coordinator for Area 3 of the State Soil and Water Conservation districts.

\$43,600	R	\$43,600	R
\$3,000	NR		

1.00		1.00	
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38 Agriculture Cost Share for Animal Waste Management

Additional funds for the Agriculture Cost Share Program for Nonpoint Source Pollution Control to assist existing farming operations in obtaining approved animal waste management plans.

\$2,000,000	NR		
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39 Agriculture Cost Share County Technical Assistance

Additional funds to reimburse counties up to 50% of the costs of providing technical assistance in the planning, design and installation of agricultural BMPs to improve water quality.

\$300,000	R	\$300,000	R
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Environment, Health, and Natural Resources

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40 Soil and Water District Travel Funds

Funds for local Soil and Water Conservation Districts for travel and per diem expenses of district supervisors.

\$50,000 NR

(3.00) Air Quality

41 Increase Receipts

Increase the budgeted amount of program receipts and reduce the General Fund appropriation by an equal amount.

(\$200,000) R (\$200,000) R

(3.00) Land Resources

42 Dam Safety Inspection and Assistance

Funds to establish additional positions to increase the number of dam inspections and to provide technical assistance to owners in the areas of design and construction planning, maintenance, repairs, and emergency action plans.

\$255,336 R \$255,336 R
\$19,000 NR

5.00 5.00

(3.00) Water Quality

43 Wastewater Treatment System Operator Training

Funds to provide training, certification and continuing education courses for wastewater treatment system operators for one year.

\$474,795 NR

5.00

44 Regional Wastewater Management

Funds economic development along with a regional wastewater collection, treatment and disposal system that uses innovative technology to reduce nutrient and organic loadings to surface waters.

\$1,000,000 NR

45 Federal Wastewater Assistance Matching Funds

Funds to provide the 20% state match required to receive federal wastewater assistance through US EPA's Water Pollution Control Program. Funds will be used to provide low interest loans to local units of government for wastewater construction and improvement projects.

\$4,001,775 NR

46 Basinwide Data Management System Development

Funds for a program delivery initiative to focus on consolidating all existing databases and facilitating access to environmental programs and data. Support staff and equipment needed to maintain the system will be phased in.

\$260,846 R \$375,153 R

1.00 3.00

Environment, Health, and Natural Resources

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(3.00) Water Resources

47 Regional Groundwater Management

Funds for monitoring in the Black Creek and Upper Cape Fear aquifers and for maintenance of monitoring wells in the area. The effective date for these positions is October 1, 1997.

\$150,000 R \$150,000 R

3.00 3.00

(4.00) Environmental Health

48 Childhood Lead Exposure Control

Funds to expand the state's Childhood Lead Poisoning Prevention Program to emphasize compliance with maintenance standards to minimize lead hazards. Funds contingent upon the passage of HB 1007, SB 806, or identical legislation.

\$210,879 R \$210,879 R
\$26,200 NR

3.00 3.00

49 Assistance to Local On-Site Wastewater Programs

Funds to provide additional training, technical assistance and regulatory oversight to local programs in the areas of plan review, septic tank design, manufacture, installation and performance. Funds also to provide additional staff to identify and eliminate straight pipe sewage and wastewater discharges and failing septic systems throughout the state.

\$226,212 R \$226,212 R
\$23,800 NR

4.00 4.00

50 Evaluation of Septic Problems

Funds to evaluate the condition of septic tanks in the Neuse River Basin.

\$150,000 NR

51 Support for Local Environmental Health Programs

Funds to provide training, continuing education and technical assistance to local environmental health specialists performing food, lodging and institution inspections, and other regulatory activities to ensure the sanitation and safety of swimming pools, spas and tattoo artists.

\$355,402 R \$355,402 R

6.00 6.00

52 Food Sanitation Training Funds

Funds to provide training and continuing education to persons who conduct food and lodging inspections for county health departments.

\$100,000 NR

53 Federal Water Supply Assistance Matching Funds

Funds to provide the 20% state match required to receive a federal capitalization grant through US EPA's Drinking Water State Revolving Fund Program. Funds will be used to provide low interest loans to public water systems for capital expenditures associated with drinking water regulations and compliance.

\$9,222,820 NR

Environment, Health, and Natural Resources

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54 Coastal Water Quality Monitoring

Funds to develop and implement a program to monitor coastal area waters, rivers and sounds for contaminants to protect the public health of swimmers and other recreational users of the state's coastal waters.

\$337,566	R	\$337,566	R
\$59,500	NR		
6.00		6.00	

(4.00) Epidemiology

55 Alcohol Chemical Testing Certification Program

Reduce General Fund support for the alcohol chemical testing training and certification program to more accurately reflect actual expenditures.

(\$200,000)	R	(\$200,000)	R
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56 Rabies Detection and Prevention Program

Funds to provide additional professional consultation and education services to help prevent the spread of rabies.

\$50,000	R	\$50,000	R
1.00		1.00	

(4.00) Health Promotion

57 Heart Disease & Stroke Prevention Awareness

Funds to develop and maintain a database of existing cardiovascular disease related services and to conduct a statewide media campaign to raise awareness about cardiovascular disease, as recommended by the Heart Disease and Stroke Prevention Task Force established in 1995.

\$170,500	R	\$170,500	R
\$29,500	NR		

58 Heart Disease Data Funds

Funds to begin the identification, coordination and assessment of existing cardiovascular databases within the state.

\$100,000	NR		
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59 Cancer Control Plan Implementation Funds

Funds to begin implementation of the North Carolina Cancer Control Plan prepared by the Advisory Committee on Cancer Coordination and Control.

\$250,000	R	\$250,000	R
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60 Osteoporosis Task Force

Funds to establish and support the Osteoporosis Task Force.

\$200,000	NR		
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61 Arthritis Program

Continue grant-in-aid for private local project providing services to arthritis patients in Hecklenburg County.

\$15,000	NR		
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62 State Games of North Carolina

Environment, Health, and Natural Resources

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Funds for the Governor's Council on Physical Fitness to support the State Games.

\$150,000 NR

(4.00) Laboratory Services

63 Rabies Laboratory Analysis Funds

Funds for additional personnel, supplies and equipment to enhance rabies testing performed by the State public health lab.

\$79,630 R

\$29,150 NR

\$79,630 R

2.00

2.00

(4.00) Maternal and Child Health

64 Maternal Outreach Worker Program

Funds to expand the maternal outreach worker program by providing funding for 31 additional home visitors employed by local service providers.

\$825,000 R

\$825,000 R

1.00

1.00

65 Children's Vision Screening Program

Funds to support a statewide training and certification program for school-based vision screeners. The department will contract with Prevent Blindness, Inc. to implement the program.

\$419,000 NR

66 Cochlear Implants

Funds for grant to UNC Board of Governors for the Carolina Communicative Disorders Program at the School of Medicine at UNC-Chapel Hill to provide cochlear implants and other communication devices for hearing impaired children.

\$230,000 R

\$230,000 R

67 UNC Craniofacial Center

Funds for grant to UNC Board of Governors for the UNC Craniofacial Center at the School of Dentistry at UNC-Chapel Hill to provide diagnostic and treatment services for children with craniofacial anomalies.

\$343,000 R

\$343,000 R

68 Non-Medicaid Maternity Care Coordination

Funds to provide case management services to women who do not meet Medicaid eligibility requirements. This item restores a reduction taken in 1996.

\$170,900 R

\$170,900 R

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(5.00) Reserves and Special Funds

69 Water Conservation and Infrastructure District

Nonrecurring funds appropriated for the District by the 1995 General Assembly were not eliminated from the 1997-99 continuation budget in error.

(\$500,000) R (\$500,000) R

70 Cape Fear River Assembly, Inc.

Funds for programs to monitor and improve the water quality of the Cape Fear River.

\$1,500,000 NR

71 Roanoke-Pamlico Estuary System Water Quality

Funds to establish a water quality monitoring program for the Roanoke-Pamlico Estuary System.

\$400,000 NR

72 Maintenance of Existing Water Quality Programs

Reserve to maintain the existing level of staff in the Water Quality Section to continue water quality programs and activities at the current level of service for one year.

\$1,000,000 NR

73 Healthy Start Foundation

Funds to provide statewide planning, promotion, and coordination for the First Step Campaign and to support other programs and activities aimed at reducing infant mortality.

\$650,000 NR

74 Core Sound Use Mapping

Funds to develop a human use map and user coordination plan for Core Sound.

\$100,000 NR

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(6.00) Department Wide

75 Salary/Span of Control/ Operating Reductions

Represents the Department's allocated share of this overall reduction:

(\$2,396,112) R (\$2,396,112) R

Office of Controller	
Salary and fringes for 1.00 FTE	(\$27,541)
General Services Office	
Salary and fringes for 1.00 FTE	(\$25,561)
Dept. Purchasing Officer III	(\$45,371)
(#55009, 1.00 FTE, Vacant)	
Information Technology Services	
Salary and fringes for 1.00 FTE	(\$39,669)
Applications Analyst Prog. Specialist	(\$10,782)
(#56011, 1.00 FTE, Vacant)	
Personnel/Human Resources	
Salary and fringes for 1.00 FTE	(\$47,026)
Personnel Supervisor I	(\$61,857)
(#52014, 1.00 FTE, Vacant)	
Public Health Communication	
Salary and fringes for 1.00 FTE	(\$45,380)
Local Health Services	
Salary and fringes for 1.00 FTE	(\$31,602)
Environmental Health	
Salary and fringes for 1.00 FTE	(\$24,286)
Dental Health	
Salary and fringes for 1.00 FTE	(\$97,175)
State Center for Health Statistics	
Salary and fringes for 1.00 FTE	(\$26,682)
Maternal and Child Health	
Salary and fringes for 7.00 FTEs	(\$364,633)
Cystic Fibrosis Purchase of Care funds	(\$148,699)
Nutrition Program Supervisor	(\$ 21,183)
(#21087, 0.30 FTE)	
Health Promotion	
Salary and fringes for 3.00 FTEs	(\$138,092)
Marine Fisheries	
Salary Reserve	(\$13,861)
Oyster Rehabilitation operating funds	(\$133,655)
Soil and Water Conservation	
Equipment, supplies & travel funds	(\$56,875)
Forest Resources	
Communications Equipment	(\$140,000)

Environment, Health, and Natural Resources

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Office of Environmental Education	
Project Tomorrow grants and contracts	(\$25,000)
Aquariums	
Supplies and materials	(\$41,777)
Museum of Natural Science	
Temporary Wages	(\$50,000)
Natural Science Education Curator	(\$56,524)
(#28100, 1.00 FTE, Vacant)	
Parks and Recreation	
Increase receipts	(\$140,000)
North Carolina Zoo	
Salary and fringes for 3.55 FTEs	(\$85,000)
Air Quality	
Salary and fringes for 1.00 FTE	(\$19,105)
Water Quality	
Salary and fringes for 3.00 FTEs	(\$105,995)
Salary Reserve	(\$69,625)
Wetlands Restoration operating funds	(\$14,449)
Coastal Management	
Salary and fringes for 1.00 FTE	(\$25,068)
Land Resources	
Salary and fringes for 1.00 FTE	(\$43,279)
Operating support	(\$12,124)
Water Resources	
Salary and fringes for 1.00 FTE	(\$29,971)
Pollution Prevention & Environmental Assistance	
Salary and fringes for 1.00 FTE	(\$19,800)
Operating support	(\$ 2,332)
Radiation Protection	
Environmental Supervisor I	(\$59,477)
(#17009, 1.00 FTE)	
Contracts	(\$25,094)
Waste Management	
Salary and fringes for 1.00 FTE	(\$58,566)
Operating support	(\$12,996)
TOTAL REDUCTIONS	(\$2,396,112)

-36.85

-36.85

(7.00) Wildlife Resources Commission

76 South Mountains Gamelands Funds				
Funds to assist in the acquisition of gamelands for hunting, fishing, outdoor recreation, and conservation in the South Mountains.				
	\$5,000,000	NR		
77 Beaver Control Program				
Continues Beaver Control program with nonrecurring funds. Expands coverage from 36 to 40 counties.				
	\$450,000	NR		
<hr/>				
Total Legislative Changes	\$1,919,490	R	\$2,131,233	R
	\$32,356,750	NR		
Total Position Changes	11.15		8.15	
Revised Budget	\$287,546,128		\$254,633,671	
<hr/>				

Commerce

GENERAL FUND

	FY 97-98		FY 98-99	
Recommended Budget	\$37,221,648		\$37,240,885	
Legislative Changes				
Administrative Services				
78 Budget Indirect Cost Receipts				
Increase the budgeted amount of indirect costs receipts and reduce General fund appropriation by an equal amount.	(\$52,000)	R	(\$52,000)	R
Business and Industry Division				
79 Regional Office Staff Support				
Provides an administrative support position for the Piedmont Triad Regional Office. The effective date of the position is September 1, 1997.	\$22,100	R	\$26,000	R
	\$5,900	NR		
	1.00		1.00	
80 Marketing Missions and Trade Shows				
Increases funding support for the Division's participation at industry trade shows and for conducting national marketing missions.	\$80,000	R	\$100,000	R
81 Fund Industrial Recruitment Competitive Fund				
Provides nonrecurring funding support for the Industrial Recruitment Competitive Fund.	\$1,000,000	NR		

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Department Wide

82 Salary Reductions/Span of Control

Represents the Department's allocated share of this overall reduction:

(\$672,485) - R (\$672,485) R

Administrative Services
Salary and fringes for 1.00 FTE (\$99,038)

Economic Development Program
Salary and fringes for 2.00 FTEs (\$71,904)

Business and Industry Division
Salary and fringes for 1.00 FTE (\$76,023)

International Trade Division
Salary and fringes for 2.00 FTEs (\$77,862)

Division of Energy
Salary and fringes for 1.00 FTE (\$42,029)

Division of Community Assistance
Salary and fringes for 1.00 FTE (\$54,264)

Division of Travel and Tourism
Salary and fringes for 1.00 FTE (\$24,065)

Industrial Commission
Salary and fringes for 8.00 FTEs (\$227,300)

TOTAL REDUCTIONS (\$672,485)

-17.00

-17.00

Economic Development Program

83 Reduce Support for Data Processing & Subscriptions

Reduce funding support for data processing services, subscriptions, and membership dues.

(\$29,000) R (\$29,000) R

84 Enhance EDIN System

Funds to enhance the Economic Development Information Network System.

\$50,000 NR

85 New and Emerging Industry Planning

Provides recurring funding for contracts and operating support to target high growth and emerging technology industries for recruitment to the state, promote technology transfer and entrepreneurship and to develop business support networks within the state.

\$300,000 R \$300,000 R

Executive Aircraft

Commerce

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86 Reduce Repair Funds				
Reduce funding support for aircraft repair.	(\$188,000)	R	(\$188,000)	R

87 Additional Funds for Lease				
Additional funds for aircraft lease.	\$350,000	R	\$350,000	R

Film Office

88 Reduce Travel				
Reduce budget for board and nonemployee transportation.	(\$25,000)	R	(\$25,000)	R

Global TransPark Marketing

89 Reduce Support for Global TransPark Marketing				
Reduce General Fund transfer from the Department of Commerce to the Global TransPark Authority in the Department of Transportation for marketing the Global TransPark.	(\$150,000)	R	(\$150,000)	R

Industrial Commission

90 Increase Industrial Commissioners Salaries				
Increases the salaries of the Industrial Commission's six Commissioners to the same amount as that for District Attorneys. Increases the salary of the Chairman of the Industrial Commission to the same amount as District Attorneys plus an additional \$1,500 per annum.	\$113,730	R	\$113,730	R

91 Budget Hearing Cost Receipts				
Increase the budgeted amount of the Commission's Hearing Cost receipts and reduce General Fund appropriations by an equal amount.	(\$202,000)	R	(\$202,000)	R

92 Case Management System				
Provides funds for operating and maintenance costs, staff support to maintain hardware and software, and to develop system applications.	\$638,571	R	\$638,571	R
	\$17,700	NR		
	3.00		3.00	

93 Temporary Positions				
Provides nonrecurring funds to support temporary positions to assist with the Commission's backlog of claims, hearings, and appeals.	\$100,000	NR		

Commerce

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Industrial Finance Center

94 Increase Industrial Development Fund

Provides a \$1 million nonrecurring expansion for the Industrial Development Fund.

\$1,000,000 NR

95 Fund Utility Account (Industrial Development Fund)

Provides nonrecurring funding support for economic development related water and sewer infrastructure projects in tier one enterprise counties.

\$2,000,000 NR

96 Increase Operating Support

Provides additional operating support for the Industrial Finance Center.

\$50,000 R \$50,000 R
\$20,000 NR

International Trade

97 International Trade Specialists

Increase the number of international trade specialists to enhance the state's marketability to potential customers in "Big Emerging Markets" (BEM). The effective date of these positions is September 1, 1997.

\$180,736 R \$196,044 R
\$12,000 NR

2.00 2.00

98 Foreign Trade Shows

Increase recurring funding for trade shows and missions to expose small and medium sized companies to the international marketplace.

\$200,000 R \$200,000 R

99 Global Offices

Funds to contract with representatives to expand the division's foreign offices into 4 new and emerging markets in and around South Africa, the United Kingdom, South America, and the Middle East.

\$300,000 R \$300,000 R

NC Alliance for Competitive Technologies

100 Recurring Funding Support to Continue Operations

Provides recurring state funding support to replace three-year federal grant and matching nonrecurring state funding support that will expire at the end of fiscal year 1996-97. Funding will allow the North Carolina Alliance for Competitive Technologies to continue operation as a state agency.

\$375,000 R \$375,000 R

3.00 3.00

Commerce

Conference Report on the Continuation, Capital and Expansion Budgets

Reserve and Transfers

101 Reduce Support for the Regional Commission

Reduces grant-in-aid support for the seven Regional Economic Development Commissions from \$4.68 million to \$4.275 million.

(\$405,000) R (\$405,000) R

102 Year of the Mountain

Reserve for planning initiatives.

\$300,000 NR

103 Special Olympics 1999 World Summer Games

Nonrecurring funds to support the Special Olympics 1999 World Summer Games.

\$800,000 NR

104 Institute for Aeronautical Technology

Provides \$1 million in nonrecurring funding for the Institute for Aeronautical Technology. Funds are to be used for planning, design, and land acquisition.

\$1,000,000 NR

Travel and Tourism

105 Budget Additional Receipts

Increase the amount of budgeted receipts and reduce General Fund appropriation by an equal amount.

(\$12,000) R (\$12,000) R

106 Advertising Funds

Expand current promotional advertising funds and associated expenses to promote North Carolina as a travel destination.

\$1,000,000 NR

107 International Marketing

Funds to continue and expand the promotion of North Carolina as a travel destination in the international arena.

\$1,000,000 NR

108 1-800-VISIT-NC

Additional funds for the tourism hotline operated at Women's Prison.

\$250,000 NR

109 Rural Tourism Development Funds

Funds to support the Rural Tourism Development Grants program.

\$300,000 NR

Commerce

Conference Report on the Continuation, Capital and Expansion Budgets

110 Heritage Tourism

Funds to operate small scenic attractions of historic value to the state.

\$300,000

R

\$300,000

R

6.00

6.00

Wanchese Seafood Industrial Park**111 Restore Governor's Reduction**

Restore Governor's recommended continuation budget reduction in funding and positions.

\$122,594

R

\$122,594

R

3.00

3.00

Total Legislative Changes

\$1,297,246

R

\$1,336,454

R

\$8,855,600

NR

Total Position Changes

1.00

1.00

Revised Budget

\$47,174,494

\$38,577,338

State Aid to Non-State Entities

GENERAL FUND

	FY 97-98	FY 98-99
Recommended Budget	\$1,475,000	\$1,475,000

Legislative Changes

Grants-In-Aid

112 Land Loss Prevention Project				
Eliminate Governor's recommended recurring appropriation and provide nonrecurring funds for FY 1997-98. Funds provide free legal representation to low-income, financially distressed farmers.	(\$275,000)	R	(\$275,000)	R
	\$350,000	NR		
113 Coalition of Farm and Rural Families				
Eliminate Governor's recommended recurring appropriation and provide nonrecurring funds for FY 1997-98. Funds foster economic development within the state's rural farm communities by offering marketing and technical assistance to small and limited resource farmers.	(\$145,000)	R	(\$145,000)	R
	\$250,000	NR		
114 North Carolina Minority Support Center				
Eliminate Governor's recommended recurring appropriation and provide nonrecurring funds for FY 1997-98. Funds provide technical assistance to community-based minority credit unions.	(\$275,000)	R	(\$275,000)	R
	\$375,000	NR		
115 Institute of Minority Economic Development				
Eliminate recurring appropriation and provide nonrecurring funds for FY 1997-98. Funds foster economic development within the state through policy analysis, information and technical assistance, resource expansion, and support of community-based initiatives.	(\$780,000)	R	(\$780,000)	R
	\$1,000,000	NR		
116 Technological Development Authority				
Grant-in-aid to the N.C. Technological Development Authority, Inc. for entrepreneurial support and infrastructure including creating new incubators, enhancing existing incubators, developing capital formation initiatives, supporting research commercialization programs and matching federal grant and loan funds.	\$3,000,000	NR		
117 World Trade Center North Carolina				
Grant-in-Aid to the World Trade Center North Carolina to	\$300,000	NR		

State Aid to Non-State Entities

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support international trade education programs to small and medium sized businesses.

118 Center for Community Self-Help

Provide funds to further a statewide program of lending for home ownership.	\$5,000,000	NR		
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119 Yadkin/Pee Dee Lakes Project

Funds to the Yadkin/Pee Dee Lakes Project, Inc. to promote tourism and economic development in the area.	\$100,000	NR		
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120 Transfer N.C. Community Development Initiative

Transfer funding for the North Carolina Community Development Initiative, Inc. from the Rural Economic Development Center to the Department of Commerce.	\$1,800,000	R	\$1,800,000	R
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121 N.C. Community Development Initiative

Additional funds for the North Carolina Community Development Initiative, Inc. to support operating and program activity grants to mature community development corporations.	\$200,000	R	\$200,000	R
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Total Legislative Changes

\$525,000	R	\$525,000	R
\$10,375,000	NR		

Total Position Changes

Revised Budget	\$12,375,000	\$2,000,000
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NC Biotechnology Center

GENERAL FUND

	FY 97-98	FY 98-99
Recommended Budget	\$7,664,396	\$7,664,396
Legislative Changes		
NC Biotechnology Center		
122 Economic Development Investment Fund		
Nonrecurring funding increase for the N.C. Biotechnology Center's Economic Development Investment Fund. Funds provided are to be used for loans or equity investment to biotechnology companies and to biomedical and other bioscience related companies.	\$7,500,000	NR
123 Historically Minority Universities		
Additional nonrecurring funding to support biotechnology programs at the State's six Historically Minority Universities (Elizabeth City State University, Fayetteville State University, NC A&T State University, NC Central University, University of North Carolina-Pembroke, and Winston-Salem State University).	\$1,000,000	NR
Total Legislative Changes		
	\$8,500,000	NR
Total Position Changes		
Revised Budget	\$16,164,396	\$7,664,396

Rural Economic Development Center

	GENERAL FUND	
	FY 97-98	FY 98-99
Recommended Budget	\$5,870,000	\$5,870,000
Legislative Changes		
N.C. Association of CDCs		
124 N.C. Association of CDCs		
Eliminate recurring appropriation for the North Carolina Association of Community Development Corporations, Inc. and provide nonrecurring funds for FY 1997-98. Funds provide training and technical assistance to community development corporations statewide.	(\$150,000) R	(\$150,000) R
	\$200,000 NR	
N.C. Community Development Initiative		
125 Transfer N.C. Community Development Initiative		
Transfer funding for the North Carolina Community Development Initiative, Inc. from the Rural Economic Development Center to the Department of Commerce.	(\$1,800,000) R	(\$1,800,000) R
Rural Economic Development Center		
126 Supplemental Funding Program		
Additional funds to support the Supplemental Funding Program for economic development in rural communities.	\$3,150,000 NR	
Total Legislative Changes	(\$1,950,000) R	(\$1,950,000) R
	\$3,350,000 NR	
Total Position Changes		
Revised Budget	\$7,270,000	\$3,920,000

Transportation

HIGHWAY FUND

	FY 97-98		FY 98-99
Recommended Budget	\$1,082,397,705		\$1,087,670,091

Legislative Changes

Administration

(0000) All Divisions				
1 Position Reductions	(\$135,000)	R	(\$135,000)	R
Eliminate 3 vacant positions:				
Asst. Sec. for Government Affairs				
Deputy Secretary				
Personnel Tech III	-3.00		-3.00	
2 Reduce Operating Expenses	(\$130,000)	R	(\$130,000)	R
Travel/Other Employee Expenses (22XX)	(\$10,000)			
Payments for Services (22XX)	(\$100,000)			
Materials and Supplies (24XX)	(\$10,000)			
Equipment (25XX)	(\$10,000)			
Total	(\$130,000)			
(0110) Board of Transportation				
3 Reduce Operating Expenses	(\$26,000)	R	(\$26,000)	R
Per Diem (2231)	(\$16,000)			
Board-Council Expenses (2235)	(\$10,000)			
Net	(\$26,000)			
(0210) Fiscal				
4 Reduce Operating Expenses	(\$10,000)	R	(\$10,000)	R
Travel and Subsistence (2236-40)	(\$18,000)			
Hwy Trust Fund Trans. (0914)	\$ 8,000			
Net	(\$10,000)			
(0220) MIS				
5 Support for Year 2000 Conversion				
Contract personnel to provide technical support for the Year 2000 conversion.	\$4,835,000	NR	\$5,575,000	NR
6 Support for Vehicle Registration System (STARS)				
Contract personnel to provide programming support for the Vehicle Registration System (STARS).	\$600,457	R	\$600,457	R
	\$600,447	NR		
7 Support for Driver License System				
Contract personnel to provide programming support for the Driver License System.	\$421,852	R	\$421,852	R
	\$140,618	NR		

Transportation

Conference Report on the Continuation, Capital and Expansion Budgets

(0290) Internal Audit

8 Reduce Operating Expenses		(\$1,350)	R		(\$1,350)	R
Educational Expenses (2233)	(\$3,000)					
Hwy Trust Fund Trans. (0914)	\$1,650					
Net	(\$1,350)					

(0290) Director of Administration

9 Reduce Operating Expenses		\$0	R		\$0	R
Professional Fees (2310)	(\$50,000)					
Hwy Trust Fund Trans. (0914)	\$50,000					
Net	(\$ 0)					

10 Increase Receipts		(\$185,000)	R		(\$185,000)	R
Employee Commuting Fees (0994)	\$185,000					

(0680) Ferry Division

11 Increase Receipts						
Charges to Work Orders (0910)	\$10,000	(\$10,000)	NR			

Operations

(0000) All Divisions

12 Reduce Operating Expenses		(\$85,000)	R		(\$85,000)	R
Travel/Other Employee Expenses (22XX)	(\$30,000)					
Payments for Services (22XX)	(\$30,000)					
Materials and Supplies (24XX)	(\$10,000)					
Equipment (25XX)	(\$15,000)					
Total	(\$85,000)					

(1030) Chief Engr of Operations

13 Reduce Operating Expenses		(\$8,600)	R		(\$8,600)	R
Educational Expenses (2233)	(\$20,000)					
Hwy Trust Fund Trans (0914)	11,400					
Net	(8,600)					

(2050) Division Five

14 Reduce Operating Expenses		(\$18,510)	R		(\$18,705)	R
	97/98	98/99				
Telephone (2322)	(\$7,000)	(7,210)				
Data Processing Equip (2510)	(15,000)	(15,000)				
Hwy Trust Fund Trans.(0914)	3,490	3,505				
Net	(18,510)	(18,705)				

Transportation

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(2140) Division Fourteen			
15 Reduce Operating Expenses	(\$2,250)	R	(\$2,250) R
Repairs (2342)	(\$3,000)		
Hwy Trust Fund Trans. (0914)	750		
Net	(\$2,250)		
(2210) Highway Design			
16 Reduce Operating Expenses	(\$51,710)	R	(\$51,710) R
Subsistence & Travel (2236;7)	(\$20,000)		
Repairs (2347)	(5,000)		
Photographic Supplies (2410)	(12,000)		
Engr & Drafting Equip (2512)	(20,000)		
Services by Other Hwy Div. (2640)	(30,000)		
Hwy Trust Fund Trans. (0914)	35,290		
Net	(51,710)		
17 Increase Estimated Receipts	(\$75,000)	R	(\$75,000) R
Direct Charges to Job Orders (0910)	(\$50,000)		
Other Receipts (0990)	(25,000)		
Net	(75,000)		
(2230) Maintenance			
18 Reduce Operating Expenses	(\$33,350)	R	(\$33,350) R
Subsistence & Travel (2236;7)	(\$35,000)		
Rent of Equip (2522)	(5,000)		
Hwy Trust Fund Trans. (0914)	6,650		
Net	(33,350)		
(2240) Construction			
19 Reduce Operating Expenses	(\$7,000)	R	(\$7,000) R
Laboratory Equipment (2514)	(\$7,000)		
(2260) Safety & Loss Control			
20 Reduce Operating Expenses	(\$24,000)	R	(\$24,000) R
Educational Expenses (2233)	(\$9,000)		
Subsistence and Travel (2236;7;8;9;40)	(15,000)		
Net	(24,000)		
(2320) Traffic Engineering			
21 Reduce Operating Expenses	(\$6,300)	R	(\$6,300) R
Subsistence and Travel (2236;7;8;9;40)	(\$7,500)		
Hwy Trust Fund Trans. (0914)	1,200		
Net	(6,300)		

Transportation

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(2330) Right of Way

22 Reduce Operating Expenses	(\$5,000)	R	(\$5,000)	R
Subsistence and Travel (2236;7;8;9;40) (\$5,000)				

(2420) Highway Engineering Assoc. Prog.

23 Increase Receipts	(\$250,000)	R	(\$250,000)	R
Direct Charges-Work Orders (0910) \$250,000				

Construction and Maintenance

(5120) Secondary Roads

24 Technical Adjustment Based on Actual Revenues	(\$2,035,976)	R		
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The continuation budget amount for Secondary Roads is equal to 1-3/4 cents of total FY 96/97 gas tax revenues. Based on actual FY 96/97 revenues this amount should be reduced below the amount in the Governor's continuation budget.

(5180) Construction - Discretionary

25 Increase Small Urban Programs	\$4,000,000	R	\$4,000,000	R
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Provides an additional funding for rural and small urban highway improvements, industrial access and spot safety.

(5240) Contract Resurfacing

26 Additional Resurfacing Funds	\$7,408,965	R	\$7,408,965	R
To provide additional funds for contract resurfacing.	\$11,767,799	NR		

(5400) Capital Improvements

27 Capital Facilities Improvements

To provide funds for capital facilities improvements.

\$12,100,000 NR

1. R.E.U. Office/Assembly & Storage Facility
Newton - \$434,000
2. Equipment Shop, Const.
Marion - \$1,103,000
3. Transportation Bldg. Upgrade - Chiller
Raleigh - \$469,000
4. Site Planning & Utilities Const.
Asheboro - \$128,000
5. Equipment Shop, Const.
Asheboro - \$1,024,000
6. Century Center Renovation - Electrical
Raleigh - \$439,000
7. Maint. Office/Assembly
Franklin - \$405,000
8. DMV - Bldg. Renovation & Addition
Morganton - \$198,000
9. Resident Engr's. Office, Const.
Lumberton - \$294,000
10. DMV - Bldg. Renovation & Addition
Charlotte - \$262,000
11. R.E.U./Road Oil Building
North Wilkesboro - \$1,127,000
12. Land Purchase, 1.5 Acres
Currituck - \$84,000
13. DMV - HVAC Replacements
Statewide - \$300,000
14. DOH - Water and Sewage Systems
Statewide - \$132,000
15. Transportation Bldg. Upgrade - Plumbing
Raleigh - \$303,000
16. DOH - Misc. (Small) Office Additions
Statewide - \$120,000
17. DMV - Life Safety Upgrades
Raleigh - \$142,000
18. DMV - Water and Sewage Systems
Statewide - \$100,000
19. Weigh Stations - Electrical Renovations
Statewide - \$100,000
20. Weigh Stations - HVAC Renovations
Statewide - \$84,000
21. DMV - Pkg. Lot Renovations
Statewide - \$185,000
22. Div. Traffic Serv. Office/Shop/Whse., Const.
Carthage - \$1,355,000
23. Pesticide Storage Bldg., Const.
Carthage - \$75,000
24. Salt Storage Facilities
Statewide - \$532,000
25. Repair/Supply Facility, Const.
Hatteras North Dock - \$721,000
26. DMV - Bldg. Renovation & Addition
North Wilkesboro - \$198,000
27. DMV - Roof Replacements

Transportation

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Statewide - \$263,000
 28.DMV- Exterior Renovations
 Statewide - \$238,000
 29.DMV - Interior Renovations
 Statewide - \$182,000
 30.DMV - Bldg. Renovations & Addition
 Sanford - \$378,000
 31.DMV - Renovation & Addition
 Graham - \$60,000
 32.DMV - Computer Room Renovation
 Raleigh - \$99,000
 33.Land Purchase, 0.75 Acre
 Hayesville - \$100,000
 34.New Division Office, Land Purchase & Des.
 North Wilkesboro - \$366,000
 35.Renovate Maintenance Facility
 Onslow County - \$100,000

(5600) Federal Construction

28 Reduce Federal Aid Match

Reduce Highway Fund appropriations used to match Federal Aid. (\$23,954,740) NR

(5910) State Aid to Municipalities (Powell Bill)

29 Technical Adjustment Based on Actual Revenues

(\$2,035,976) R

The continuation budget amount for Powell Bill Funds is equal to 1-3/4 cents of total FY 96/97 gas tax revenues. Based on actual FY 96/97 revenues this amount should be reduced below the amount in the Governor's continuation budget.

(5940 & 5970) State Aid - Rail & Public Transit

30 Public Transportation Improvements

\$12,600,000 R \$12,600,000 R

To provide additional funds for the improvement of passenger rail service and support of local public transportation systems.

\$13,400,000 NR

Division of Motor Vehicles

(0000) All Divisions

31 Federal Driver License Privacy Act Implementation

\$124,600 R \$124,600 R

Federal law requires restricted access to motor vehicle records after September 1997. Additional positions are needed to implement new information request procedures.

\$13,000 NR

2.00

2.00

(0520) Vehicle Registration

32 Adjust Operating Expenses	\$300,000	R	\$300,000	R
Professional Fees (2310)	(\$ 40,000)			
Insurance and Bond Premium (2351)	(\$ 30,000)			
Uniforms, Arms, Etc (2412)	(\$ 1,409)			
Branch Agent Commissions (2314)	\$268,909			
Data Processing Equipment (2510)	\$ 40,000			
Hwy Trust Fund Trans. (0914)	\$ 62,500			
Net	\$300,000			
33 Increase Receipts	(\$260,000)	R	(\$260,000)	R
Registration Info. Receipts (0985)	\$225,000			
Acknowledgment Fees (0986)	\$ 35,000			
Net	\$260,000			
34 Service and Maintenance of Equipment	\$150,000	R	\$165,000	R
Increased service and maintenance costs for data processing equipment.				
35 Branch Agent Transaction Volume	\$2,027,695	R	\$3,052,783	R
Increased costs related to larger number of transactions performed by Branch Agents, based on current transaction rates.				
36 Increase Highway Trust Fund Receipts	(\$889,760)	R	(\$1,073,146)	R
Highway Trust Fund receipts increase due to growth in Highway Use Tax transactions.				
37 Branch Agent Rate Increase	\$1,028,619	R	\$1,110,909	R
Branch Agent rate increases from \$1.20 per transaction to \$1.35 for non-Highway Use Tax transactions.				
38 License Plates and Stickers	\$226,291	R	\$392,763	R
Increased costs related to larger number of license plates.				

(0530) Driver Licensing

39 Adjust Operating Expenses	\$0	R	\$0	R
Repairs and Services to Equip. (2342)	(\$ 8,000)			
Repairs and Services to DP Equip. (2347)	(\$ 9,000)			
Office supplies (2410)	(\$70,000)			
Photographic Supplies (2473)	(\$ 5,000)			
Printing and Binding (2411)	\$75,000			
Driver License Photo Equipment (2524)	\$17,000			
Net	\$ 0			
40 Automated Testing System			\$30,000	R
Install automated testing equipment in 10 offices.	\$270,000	NR	\$230,000	NR
41 Renovate 11 Driver License Offices				
The following offices are scheduled for renovation:	\$494,722	NR		
East Greensboro, Asheboro, Clyde, Concord, Greenville, Monroe, Morehead City, Morganton, Rocky Mount, Taylorsville				

Transportation

Conference Report on the Continuation, Capital and Expansion Budgets

and Whiteville

42 Automated Customer Queuing System	\$9,500	R	\$39,500	R
Install Queuing Systems in 20 Driver License offices.	\$360,000	NR		
43 Photo Equipment	\$191,444	R	\$399,598	R
Increased costs of leasing digitized photo equipment due to increases in number of transactions performed.				
44 Graduated Driver License Implementation	\$101,789	R	\$255,607	R
Expenditures to implement graduated driver license legislation. Additional funding and positions will be required in FY 99-00.	\$20,865	NR	\$28,595	NR
	3.00		7.00	
45 Driver License Office Staffing	\$904,940	R	\$1,138,735	R
Additional staffing necessary to meet customer demands.	\$95,060	NR	\$23,765	NR
	28.00		35.00	
(0540) School Bus and Traffic Safety				
46 Adjust Operating Expenses	\$0	R	\$0	R
Dues, Subscriptions, Promo.(2352)	(\$5,000)			
Repairs and Services to Equip.(2342)	(\$2,000)			
In-State Transportation (2237)	\$7,000			
Net	\$ 0			
47 Driver Improvement Clinics	\$18,500	R	\$18,500	R
To enable drivers to complete clinic in one day.	\$35,100	NR		
(0550) Traffic Records				
48 Increase Receipts	(\$7,400)	R	(\$7,400)	R
Reimbursement NHSTA (0959)	\$7,400			
(0560) International Registration Plan				
49 Adjust Operating Expenses	(\$4,700)	R	(\$4,700)	R
Travel and Subsistence (2238-9)	(\$5,000)			
Telephone and Telegraph (2322)	(\$2,000)			
In-State Transportation (2237)	\$2,000			
Hwy Trust Fund Trans. (0914)	\$ 300			
Net	(\$4,700)			

Transportation

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(0570) Enforcement

50 Adjust Operating Expenses

Educational Expenses (2233)	(\$ 2,186)
Repairs and Service OP Equip. (2347)	(\$ 36,000)
Motor Vehicle Operations (2469)	(\$ 2,331)
In-State Subsistence (2236)	(\$213,184)
Rent of Other Equipment (2523)	(\$ 10,000)
In-State Transportation (2237)	\$189,184
Out of State Subsistence (2238)	\$ 12,000
Out of State Transportation (2239)	\$ 6,000
Other Travel Expenses (2240)	\$ 6,000
Training Data Processing (2250)	\$ 2,186
Professional Fees (2310)	\$ 10,000
Shop Supplies and Small Tools (2474)	\$ 2,331
Data Processing Equipment (2510)	\$ 57,500
Safety Inspection Invest. (2637)	(\$ 21,500)
Net	\$ 0

\$0 R \$0 R

51 Equipment

To provide funds to purchase portable scales, scale racks, and 800 MHZ radios.

\$591,830 NR

(0590) Motor Vehicle Exhaust Emission Inspec.

52 Adjust Expenditures and Receipts

To budget additional receipts and expenditures for this fee supported program, based on program requirements

\$0 R \$0 R

	97/98	98/99
Expenditures	\$3,959,086	\$1,478,941
Receipts	(\$3,959,086)	(\$1,478,941)
Net	0	0

Reserves

(0000) Reserves

53 Minority Contractor Development

To provide funds to the Department of Transportation for the development of minority contractors.

\$150,000 R \$150,000 R

54 State Fire Protection Grant Fund

Highway Fund portion of grants to local fire units for protection of State facilities.

\$150,000 R \$150,000 R

(6270) Crime Control and Public Safety

65 Criminal Justice Information Network (CJIN)

Provide funds for installation of 18 data transmitters and purchase of 200 mobile data units.

\$4,106,600 NR \$156,600 NR

56 Highway Patrol Helicopters

Provides funds to move two State Highway Patrol helicopters to Asheville and Kinston. Funds for operations, maintenance

\$103,660 R \$103,660 R

Transportation

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and flight time.

(6310) Dept. of Public Instruction

57 Increased Driver Education Cost

\$922,607 R \$939,955 R

Increased Driver Education Cost due to revised 9th grade Average Daily Membership (ADM) estimates.

(6610) Employer Retirement Cont

58 Reduce Retirement Contribution

(\$1,650,200) R

Savings realized by a reduction in retirement rate contribution. Contribution rate is reduced from 10.83% to 10.46% for FY 97/98 only.

(6810) Compensation Increases

59 Reduction of Reserve for Compensation Increases

(\$250,000) R (\$250,000) R

The reserve amount provided in 1996 for the 4.5% FY 96/97 compensation increase was more than was needed to pay for the annualized cost of the increase. As a result, compensation funds can be reduced by \$250,000.

60 Legislative Salary Increase

\$15,679,786 R \$15,679,786 R

Provides funds for a 2% cost of living adjustment and a 2% career growth salary increase for employees paid from Highway Fund appropriations. Employees at the top of their pay scale receive a one-time bonus instead of a 2% career growth increase.

\$1,079,570 NR

(6820) New DMV Building

61 New DMV Building

Provides design funds for new DMV Building.

\$1,000,000 NR

(6825) Computer Replacement

62 Computer Replacement Reserve

Provides funds to allow for ongoing replacement of obsolete personal computers.

\$1,000,000 NR \$1,000,000 NR

(6826) New DMV Systems

63 Collisions Reports Re-engineering

Provide funds for the re-engineering of the way data is collected relating to automobile accidents.

\$1,774,500 NR \$1,742,527 NR

64 International Registration Plan (IRP)

Provide funds for enhancements to outdated IRP software.

\$1,270,600 NR \$1,766,000 NR

Transportation

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Conference Report on the Continuation, Capital and Expansion Budgets

	\$38,932,623	R	\$46,433,159	R
Total Legislative Changes	\$30,990,971	NR	\$10,522,487	NR
Total Position Changes	30.00		41.00	
Revised Budget	\$1,152,321,299		\$1,144,625,737	

Capital

GENERAL FUND

FY 97-98

FY 98-99

Legislative Changes

Administration

1 State Government Visitor Center

Funds to support continued planning through working drawings for a center to be located in Raleigh.

\$1,000,000 NR

Agriculture

2 Cattle and Livestock Exposition Center

Funds to support planning of a livestock facility to be located in Iredell County.

\$600,000 NR

3 Eastern Agricultural Center

Funding for continued development of the center.

\$3,500,000 NR

4 Piedmont Triad Farmer's Market

Planning and construction funds for the Wholesale/Retail Building.

\$3,444,400 NR

5 Rollins Lab Addition

\$135,000 NR

6 Southeastern Farmer's Mkt. & Agriculture Center

Funding for continued development of the center.

\$1,000,000 NR

7 State Fair-Multi Purpose Events Building

Funds for planning and site development.

\$1,000,000 NR

BOARD OF GOVERNORS

8 A&T State - Classroom and Lab

Additional funding for the General Classroom and Lab building.

\$4,000,000 NR

9 ASU - Convocation Center

Additional costs based on final design estimates, primarily due to infrastructure and site preparation.

\$5,000,000 NR

10 ECU - Labs/Technology Building Design

Continued funding for design of 259,000 square foot building for Chemistry and Industrial Technology Departments.

\$2,000,000 NR

Capital

Conference Report on the Continuation, Capital and Expansion Budgets

11 ECU - Nursing/Home Economics Building		
Funds to support planning for an addition to existing facility.	\$500,000	NR
12 ECU - Stadium		
Funding to complete expansion of the Dowdy-Ficklen Stadium.	\$7,000,000	NR
13 Elizabeth City State - Computing Center		
Fund to construct 25,000 square feet addition. Advance planning was provided by 1995 Session.	\$3,557,600	NR
14 Elizabeth City State - Fine Arts		
Funding for the completion of the Fine Arts building.	\$3,000,000	NR
15 NCCU - B. N. Duke Auditorium Addition		
Addition to existing facility.	\$840,000	NR
16 NCSA - School of Film making		
Construction of 14,769 square foot facility to support the School of Film making with classrooms and offices.	\$1,700,000	NR
17 NCSU - Arboretum		
Funding to finalize the construction drawings for the J.C. Raulston Arboretum.	\$87,000	NR
18 NCSU - CMAST Building		
Funding for the expansion of the CMAST Building.	\$2,363,000	NR
19 NCSU - Environmental Education		
Funding to complete the Eastern 4-H Environmental Education Center.	\$5,545,300	NR
20 NCSU - Research & Teaching Feed Mill		
Funds for the construction of a 10,000 square foot building to serve as a research and demonstration facility for feed manufacturing processes.	\$2,604,400	NR
21 NCSU - Toxicology Building		
Planning Funds for 55,000 square foot facility for classrooms, research laboratories, and offices.	\$760,600	NR
22 UNC - Public Television		
Funding to replace and upgrade the Columbia Transmitter, Tower and ancillary equipment.	\$7,144,500	NR
23 UNC Asheville - Graduate Center, Phase II		
Funds to support the completion of space on the third floor of Karpen Hall to house the Department of Mass Communications.	\$792,700	NR
24 UNC Asheville - Kellogg Center		
Additional funding for the Kellogg Center.	\$500,000	NR

Capital

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Conference Report on the Continuation, Capital and Expansion Budgets

25 UNC Chapel Hill - Botanical Gardens		
Planning funds for the NC Botanical Gardens	\$350,000	NR
26 UNC Chapel Hill - Knapp Building		
Funding for an addition to the Institute of Government Knapp building.	\$4,000,000	NR
27 UNC Chapel Hill - Living and Learning Center		
Funding for the expansion of the Carolina Living and Learning Center.	\$1,274,275	NR
28 UNC Chapel Hill - Paul J. Rizzo Conference Center		
Supplement to help fund self-liquidating executive residential conference center with total cost of \$15.5 million.	\$2,800,000	NR
29 UNC Chapel Hill - Pharmacy		
Funding for an addition to Beard Hall - School of Pharmacy	\$8,824,600	NR
30 UNC Charlotte - Academic Facilities		
Additional funds for design and site preparation for 120,000 square foot classroom building.	\$780,000	NR
31 UNC Charlotte - Polymer Extension		
Construction of a new building and relocation of equipment for the Polymer's Extension Program.	\$1,450,000	NR
32 UNC Greensboro - Lab and Classroom		
Additional funding for the Science Lab and Classroom building.	\$3,500,000	NR
33 UNC Greensboro - Music Building Supplement		
Supplement to support additional project costs related to inflation and resiting of building.	\$2,300,000	NR
34 UNC Pembroke - Residence Hall		
Funding for the construction of a new residence hall.	\$5,979,500	NR
35 UNC Wilmington - General Classroom Building		
Construction of a 51,600 square foot general classroom building.	\$8,465,500	NR
38 WSSU - FL Atkins Nurse Bldg.		
Planning for renovation and construction of a 19,000 square foot addition for Nursing and Allied Health programs.	\$5,198,500	NR

COMMUNITY COLLEGES

37 Center for Applied Textile Technology		
Maintenance & Storage facility	\$62,800	\$500,000 NR
Planning, design, site development for the Lab and Administration bldg.	\$437,200	

Capital

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Conference Report on the Continuation, Capital and Expansion Budgets

Correction

38 Alexander County
Planning funds for the development of a single cell facility. \$300,000 NR

39 Carteret County
Department of Correction: Funding for a multi-purpose modular building. \$400,000 NR

Crime Control and Public Safety

40 Charlotte National Guard Armory
Funding for the State share of the construction costs. \$1,260,300 NR

Cultural Resources

41 Maritime Museum
Funding for land acquisition and development of the museum. \$1,500,000 NR

42 Museum of Cape Fear
Funding for continued development of the museum. \$1,100,000 NR

43 Museum of History Restaurant
Funds to equip restaurant facility. \$608,945 NR

44 Museum of the Albemarle
Funding for planning and site development. \$1,000,000 NR

45 Reserve for Exhibits
Reserve to be allocated for projects as identified by the Department as their most urgent needs: Museum of History, State Capitol, and Visitor Center. \$1,300,000 NR

46 Roanoke Island Commission
Funding for exhibits at the Festival Park. \$1,400,000 NR

Environment, Health and Natural Resources

47 Forest Resources
Funding for an addition to the equipment building at Wayne County Forestry Headquarters. \$100,000 NR

48 N.C. Aquariums
Funding for the expansion of one aquarium. \$11,500,000 NR

49 Natural Science Museum
Funding for exhibits for the museum. \$7,600,000 NR

Capital

Conference Report on the Continuation, Capital and Expansion Budgets

50 Water Resources Development Projects

Funds state share of federal civil works projects. Project list is found in special provision.	\$7,030,600	NR
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Environment, Health, and Natural Resources

51 Amphibious Water Scooping Tanker Aircraft

Purchase of CL-215 Aircraft to meet increased wildfire risk related to hurricane damage and other factors.	\$4,035,100	NR
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Human Resources

52 Eastern School for the Deaf & Hard of Hearing

Planning funds for an additional dormitory.	\$500,000	NR
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State Ports Authority

53 Wilmington Facility

Funds to improve facility as follows:	\$4,859,300	NR
Acquire Additional Wilmington City Property	\$ 780,000	
Purchase New Gantry	4,079,300	

Total Legislative Changes

	\$147,991,120	NR
--	---------------	----

Total Position Changes

Revised Budget

	\$147,991,120	\$0
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Statewide Reserves

GENERAL FUND

FY 97-98

FY 98-99

Legislative Changes

1 Reduction In Debt Service	(\$18,171,611)	R	(\$18,675,184)	R
	(\$44,597,910)	NR		

Debt Service FY 97-98:

Adjusted Governor's Rec.	\$181,252,021
Revision per State Treasurer	(14,061,500)
Receipts:	
Interest on proceeds of prior bond sales	(44,597,910)
Local Government repayments	(4,110,111)

Net FY 97-98 Requirement	118,482,500
--------------------------	-------------

Debt Service FY 98-99:

Adjusted Governor's Rec.	\$225,204,831
Revision per State Treasurer	(14,677,000)
Receipts:	
Local Government Repayments	(3,998,184)

Net FY 98-99 Requirement	206,529,647
--------------------------	-------------

2 Reserve for Compensation Increases	\$343,409,871	R	\$343,409,871	R
	\$1,306,886	NR		

Effective 7-1-97:

Teachers and Instructional Support (4%-9%)	\$170,664,866
--	---------------

Principal and Asst.Principals (6%)	12,442,374
Other Public School Employees	30,475,856
University EPA	33,511,290
Community College EPA	18,281,736
Other State Employees (4%)	78,633,749
Bonus for SPA Employees at Maximum	1,306,886

Statewide Reserves

Conference Report on the Continuation, Capital and Expansion Budgets

3 Teachers and State Employees Retirement System

(\$20,331,500) NR

Net actuarial savings after retirement benefit increase of 6.2% and increase in accrual rate from 1.75% to 1.80%. Reflects employer's contribution rate reduction of 0.37%.

Total Legislative Changes	\$325,238,260	R	\$324,734,687	R
	(\$63,622,524)	NR		
Total Position Changes				
Revised Budget	\$261,615,736		\$324,734,687	

Statewide Reserves

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STATE OF NORTH CAROLINA
DEPARTMENT OF STATE,
RALEIGH, AUGUST 28, 1997

I, ELAINE F. MARSHALL, Secretary of State of North Carolina hereby certify that the foregoing volume was printed under the direction of the Legislative Services Commission from ratified acts and resolutions on file in the office of the Secretary of State.

Elaine F. Marshall

Secretary of State

APPENDIX

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State of North Carolina



JAMES B. HUNT JR.
GOVERNOR

EXECUTIVE ORDER NO. 83 AMENDING THE COMMISSION ON SUBSTANCE ABUSE TREATMENT AND PREVENTION

By the authority vested in me as Governor by the Constitution and laws of North Carolina, IT IS ORDERED:

Section 1. Establishment and Membership.

- (a) There is hereby established a Commission on Substance Abuse Treatment and Prevention ("Commission") and an Office of Substance Abuse Policy ("Office").
- (b) The Commission shall consist of twenty persons appointed by the Governor. The Governor shall designate the Chair of the Commission. All Commission members shall serve at the pleasure of the Governor.
- (c) Members shall be citizens, government officials and representatives of nonprofit organizations who have demonstrated interest, involvement, or expertise in issues related to prevention, intervention, and treatment of alcohol and other drug abuse.
- (d) For the initial appointment period, ten of the members shall serve two-year terms and ten members shall serve four-year terms. At the expiration of these terms, subsequent member appointments shall be for four-year terms.
- (e) The Commission shall meet regularly at the call of the Chair.
- (f) The following individuals, or their designees, are requested to serve as Advisors to the Commission and its staff:
 - I. The Lieutenant Governor;

2. The Attorney General;
3. Superintendent of Public Instruction;
4. Deputy Secretary of the Department of Correction;
5. Executive Director of the Governor's Crime Commission;
6. Chief of Substance Abuse Services, Division of Mental Health, Developmental Disabilities and Substance Abuse Services in the Department of Human Resources;
7. Director of the Division of Youth Services in the Department of Human Resources;
8. Director of the Youth Advocacy and Involvement Office in the Department of Administration;
9. Director of the Governor's Highway Safety Program in the Department of Transportation;
10. Secretary, Department of Environment, Health and Natural Resources;
11. Chair, North Carolina Women's Substance Abuse Advisory Committee;
12. Executive Director, North Carolina Commission on Indian Affairs;
13. Director, Office of State Management and Budget;
14. Director, Office of State Planning;
15. State Health Director;
16. Director of Division of Mental Health, Developmental Disabilities and Substance Abuse Services in the Department of Human Resources;
17. Secretary of Administration.

Advisors shall serve when called upon by the Chair of the Commission and/or its staff. Each designated agency is requested to take responsibility for cooperating with the Commission in carrying out the provisions of this Order. Each agency is asked to participate in all functions described for the advisors, allocating resources and personnel where needed.

Section 2. Functions.

In fulfilling its responsibilities, the Commission shall have the following duties:

- (a) Engender cooperation and collaboration among agencies, public and private, involved in drug and alcohol abuse programs;

- (b) Review the North Carolina laws regarding substance abuse, including criminal and service-delivery statutes, and make recommendations concerning needed changes;
- (c) Review and recommend mechanisms for the coordination of state and local resources for addressing identified needs;
- (d) Conduct public hearings and advise the Governor and other appropriate state government departments and agency heads of the result and recommendations of the Commission;
- (e) Encourage local boards, councils, or commissions to mobilize resources to address substance abuse problems;
- (f) Encourage local boards, councils, or commissions to develop an implementation plan to meet identified needs;
- (g) Assist local boards, councils, or commissions in identifying model prevention, intervention, and treatment efforts;
- (h) Encourage program activities that increase public awareness of substance abuse and strategies to decrease the problem; and
- (i) Other duties as assigned by the Governor and/or Secretary of the Department of Administration.

Section 3. Administration.

- (a) The heads of all State departments and agencies shall, to the extent permitted by law, provide the Commission and the Office with information they require to achieve the purposes of this Order.
- (b) The Office shall hire such staff as may be necessary to help the Commission accomplish its goals, contingent upon the availability of funds.
- (c) Members of the Commission shall serve without compensation, but may receive reimbursement contingent upon the availability of funds for travel and subsistence expenses in accordance with state guidelines and procedures.
- (d) The Commission and the Office shall be funded by the Governor's discretionary funds and from agencies who have primary responsibility

for involvement in program issues affecting drugs and alcohol. For administrative purposes, the Commission and the Office shall be housed in the Department of Administration. Oversight shall be with the Governor's Policy Office.

Section 4. Reports.

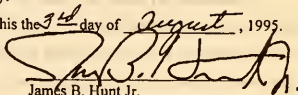
- (a) Every department, agency, institution, and organization subject to the Executive Budget Act (Chapter 143 of the General Statutes), and a direct or indirect recipient of state or federal substance abuse funding, shall report specific program and fiscal information semi-annually to the Office, in a report format approved by that office and the Office of State Budget and Management.
- (b) These reports shall, at least, include a report of all revenues and expenditures for the period. In addition, each report shall contain expenditure activity against explicit substance abuse program performance measures determined by the department, agency, institution, or organization consistent with nomenclature and procedures for performance-based budgeting established by the Office of State Budget and Management.
- (c) The Commission and the Office shall report their findings and recommendations to the Governor.

Section 5. Rescission.

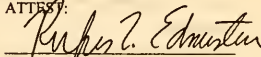
Executive Order 46 is hereby rescinded.

This Order is effective immediately.

Done in Raleigh, North Carolina, this the 3rd day of August, 1995.


James B. Hunt Jr.
Governor

ATTEST:


Rufus L. Edmisten
Secretary of State



State of North Carolina



JAMES B. HUNT JR.
GOVERNOR

EXECUTIVE ORDER NO. 84 NORTH CAROLINA HOME FURNISHINGS EXPORT COUNCIL

WHEREAS, an advisory body is needed to develop plans and programs to increase home furnishings exports from North Carolina companies into the global market; and

WHEREAS, North Carolina furniture companies and craftsmen create some of the finest furniture in the world; and

WHEREAS, the home furnishings market is becoming more globally-oriented; NOW, THEREFORE, by the authority vested in me as Governor by the laws and Constitution of the State of North Carolina, IT IS ORDERED:

Section 1. Establishment.

The North Carolina Home Furnishings Export Council ("Council") is hereby established.

Section 2. Membership.

The Council shall consist of not more than 30 voting members, with the Governor and the Secretary of Commerce serving as ex-officio members. All voting members shall be from either the public or private sector and have established connection to and genuine interest in the export of home furnishing products produced in North Carolina. The Governor shall appoint a Chair from among the voting membership. All members serve at the pleasure of the Governor. The Council shall meet at least twice a year at the call of the Chair.

Section 3. Duties of the Council.

The Council shall have the following duties:

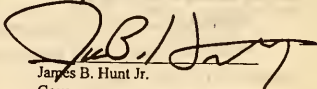
- (a) Advise the Division of International Trade of the Department of Commerce on matters related to the exportation of home furnishings;
- (b) Serve as a liaison between the North Carolina export office and industry manufacturers; and
- (c) Discover and explore ways to increase the level of exportation of North Carolina's home furnishing products.

Section 4. Administration.

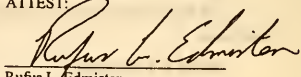
The Department of Commerce shall provide administrative and financial support for the Council. Members shall receive a per diem allowance for their service and reimbursement for travel and other expenses in accordance with state law, subject to the availability of funds.

Done in Raleigh, this the 24th day of August, 1995.




James B. Hunt Jr.
Governor

ATTEST:


Rufus L. Edmisten
Secretary of State

State of North Carolina



JAMES B. HUNT JR.
GOVERNOR

EXECUTIVE ORDER NO. 85 ESCORTS FOR FOREIGN RESEARCH REACTOR SPENT NUCLEAR FUEL

WHEREAS, the United States Department of Energy intends to ship by rail Foreign Research Reactor Spent Nuclear Fuel from Sunny Point Army Terminal in North Carolina to the Savannah River federal facility in South Carolina;

WHEREAS, the United States Department of Energy has agreed that the State of North Carolina has a public safety interest in safeguarding these rail shipments; and

WHEREAS, the United States Department of Energy and the State of North Carolina have agreed to allow law enforcement and other State officials to review the status of the tracks ahead of the shipments, accompany the shipments, and provide escort for these shipments.

NOW, THEREFORE, by the authority vested in me as Governor by the laws and Constitution of the State of North Carolina, IT IS ORDERED:

Section 1.

That for all Foreign Research Reactor Spent Nuclear Fuel shipped through the State of North Carolina, the North Carolina State Highway Patrol Commander shall assign such personnel and equipment as he deems necessary to accompany the shipments, to review the status of the tracks ahead of the shipments, and to escort the shipments.

Section 2.

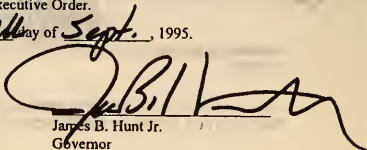
That such other State employees, including members of the Department of Crime Control and Public Safety, Division of Emergency Management, and Department of

Environment, Health and Natural Resources, Division of Radiation Protection, shall be assigned as is deemed necessary by the respective Department heads.

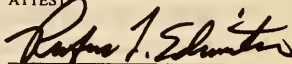
This Order is effective immediately and shall expire 90 days from this date unless terminated or extended by further Executive Order.

Done in Raleigh, this the 12th day of Sept., 1995.




James B. Hunt Jr.
Governor

ATTEST


Rufus L. Edmisten
Secretary of State

State of North Carolina



JAMES B. HUNT JR.
GOVERNOR

EXECUTIVE ORDER NO. 86 RESCISSION OF EXECUTIVE ORDER 72

WHEREAS, Executive Order No. 72 was signed March 6, 1995, creating the North Carolina State Postsecondary Eligibility Review Commission; and

WHEREAS, on July 27, 1995, funding for the State Postsecondary Review Program was rescinded by federal law; and

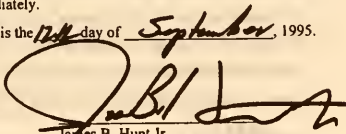
WHEREAS, on August 22, 1995, the Commission held its final meeting and adopted a dissolution resolution.

NOW, THEREFORE, by the power vested in me as Governor by the Constitution and laws of North Carolina, IT IS ORDERED:

Executive Order No. 72 (North Carolina State Postsecondary Eligibility Review Commission), dated March 6, 1995, is hereby rescinded.

This Order shall be effective immediately.

Done in Raleigh, North Carolina, this the 12th day of September, 1995.


James B. Hunt Jr.
Governor

ATTEST


Rufus L. Edmisten
Secretary of State



State of North Carolina



JAMES B. HUNT JR.
GOVERNOR

EXECUTIVE ORDER NO. 87 EXTENDING EXECUTIVE ORDERS 26, 27, 28, 29, 30, AND 34

By the power vested in me as Governor by the Constitution and laws of North Carolina,
IT IS ORDERED:

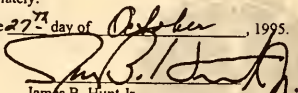
Section 1.

The following Executive Orders are hereby extended for two years:

- A. Executive Order No. 26, Board of Trustees of the N.C. Public Employee Deferred Compensation Plan;
- B. Executive Order No. 27, Governor's Commission for Recognition of State Employees;
- C. Executive Order No. 28, Agriculture, Forestry, and Seafood Industry Advisory Committee;
- D. Executive Order No. 29, Teacher Advisory Committee;
- E. Executive Order No. 30, Highway Beautification Council; and
- F. Executive Order No. 34, Highway Safety Commission.

This Executive Order is effective immediately.

Done in Raleigh, North Carolina, this the 27th day of October, 1995.


James B. Hunt Jr.
Governor

ATTEST:


Rufus L. Edmisten
Secretary of State



State of North Carolina



JAMES B. HUNT JR.
GOVERNOR

EXECUTIVE ORDER NO. 88 AMENDING STATEWIDE FLEXIBLE BENEFITS PROGRAM

WHEREAS, State employees are an important resource to state government; and

WHEREAS, the State needs to provide a uniform competitive compensation package that includes an up-to-date benefits program in order to maintain its competitive edge with businesses and other states in its region; and

WHEREAS, the State needs to provide the same tax-advantaged benefits to all State employees, regardless of the agency, department or university where they work; and

WHEREAS, the reasonable cost of administering an efficiently designed flexible benefits program could be recovered by the savings associated with such a program;

NOW, THEREFORE, by the power vested in me as Governor by the Constitution and laws of North Carolina, IT IS ORDERED:

Section 1. Policy.

A statewide employee flexible benefits coordination effort is hereby formalized for the purpose of administering these benefits to employees and to promote the development and maintenance of a competitive compensation package for all State employees.

Section 2. Administration.

There is created within the Office of State Personnel a Statewide Employee Flexible Benefits Program (SEFBP). The State Personnel Director shall be responsible for central flexible benefits coordination for all State employees. The administration of the statewide flexible benefits plan shall become the responsibility of SEFBP. This program shall begin the process of assessing the flexible benefits plan design, administrative procedures, administrative capabilities,

and communications needs for the implementation of a comprehensive statewide flexible benefits plan. These responsibilities include, but are not limited to the following:

- (a) Implementing the Statewide Flexible Benefits Plan;
- (b) Administering contracts for supplemental insurance carriers and third party administrators for spending accounts and premium conversion plans participating in the SEFBP;
- (c) Coordinating administration of spending accounts;
- (d) Coordinating enrollment and communication efforts concerning the SEFBP and other benefit programs;
- (e) Coordinating the Statewide Flexible Benefits Advisory Committee; and
- (f) Speaking on behalf of State government flexible benefits in the Legislature.

Section 3. Statewide Flexible Benefits Advisory Committee.

There is hereby established a Statewide Flexible Benefits Advisory Committee (FBAC) for the purpose of assisting the State in developing and maintaining an effective flexible benefits plan for State employees. The FBAC shall make recommendations to the State Personnel Director concerning the administration of the Flexible Benefits Plan and the components of the flexible benefits package for State employees.

Section 4. Duties of the FBAC.

The FBAC shall be responsible for the following:

- (a) Assisting the SEFBP in developing administrative functions;
- (b) Reviewing existing flexible benefit programs in State government;
- (c) Recommending pre-tax benefits to be included in the SEFBP;
- (d) Assisting in reviewing contracts and administering spending accounts; and
- (e) Undertaking other functions as necessary.

Section 5. Membership.

The membership of the FBAC shall consist of 14 members and 3 ex-officio members. Members shall be appointed to a three year staggered term. Members are as follows:

- (a) A Representative from the State Controller's Office;
- (b) A Representative from the State Treasurer's Office;
- (c) A Representative from the State Budget Office;

- (d) A Representative from the Attorney General's Office;
- (e) A Representative from the State Health Benefits Office;
- (f) A Representative from the Administrative Office of the Courts;
- (g) A Representative from the Department of Environment, Health, and Natural Resources;
- (h) A Representative from the University of North Carolina System;
- (i) A Representative from the State Employees Association;
- (j) A Representative from the Department of Human Resources;
- (k) A Representative from the Department of Transportation;
- (l) A Representative from the Department of Correction; and
- (m) Two Representatives of the private sector.

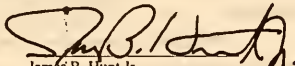
One representative each from the Department of Public Instruction and the Community Colleges shall serve as non-voting ex officio members. The SEFBP Manager shall serve as a voting ex officio member and provide support staff as required.

The Director of the Office of State Personnel shall appoint a Chair from among the membership for a one year term.

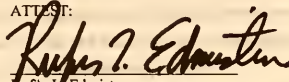
This order shall become effective immediately.

Done in Raleigh, North Carolina, this the 27th day of October, 1995.




 James B. Hunt Jr.
 Governor

ATTEST:


 Rufus L. Edmisten
 Secretary of State

State of North Carolina



JAMES B. HUNT JR.
GOVERNOR

EXECUTIVE ORDER NO. 89 DIRECTING STATE PURCHASING AGENTS TO MEET WITH REPRESENTATIVES OF THE BLIND AND SEVERELY DISABLED

WHEREAS, the General Assembly of North Carolina has recently passed legislation, which becomes effective January 1, 1996, entitled "AN ACT TO ENCOURAGE THE PURCHASE OF COMMODITIES AND SERVICES OFFERED BY BLIND AND SEVERELY DISABLED PERSONS" (Senate Bill 519, 1995 Session); and

WHEREAS, under this Act, State agencies, institutions, and political subdivisions are conditionally allowed to purchase goods and services directly from nonprofit workcenters for the blind and severely disabled; and

WHEREAS, North Carolina has over 400 blind citizens and approximately 5,200 people with severe disabilities who are employed by work centers for the blind and severely disabled; and

WHEREAS, the work centers actively train hundreds of blind and severely disabled people for employment each year; and

WHEREAS, it is in the best interests of the State of North Carolina to provide blind and severely disabled citizens with opportunities to lead more productive and meaningful lives and to support themselves and their families independent of public assistance monies.

NOW, THEREFORE, by the authority vested in me as Governor by the laws and Constitution of the State of North Carolina, IT IS ORDERED:

Section 1. The Department of Administration shall compile and maintain an accurate list of all North Carolina nonprofit work centers for the blind and severely disabled as

such centers are defined in North Carolina General Statute 143-48. (b) (1b) within the Act above-noted.

Section 2. The Department of Administration shall take all reasonable steps it deems necessary and appropriate to ensure:

a. That purchasing agents of all State government agencies and institutions subject to this Order and North Carolina General Statute 143-48.2 within the Act are aware of, and have ready access to, the list described above; and,

b. That all listed nonprofit work centers for the blind and severely disabled are apprised of the opportunities available by virtue of the Act.

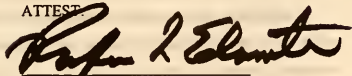
This Order is effective immediately.

Done in Raleigh, North Carolina, this the 3rd day of October, 1995.


James B. Hunt Jr.
Governor



ATTEST


Rufus L. Edmisten
Secretary of State

State of North Carolina



JAMES B. HUNT JR.
GOVERNOR

EXECUTIVE ORDER NO. 90 ESTABLISHMENT OF WORKFORCE DEVELOPMENT BOARDS

WHEREAS, North Carolina needs a competitive workforce to compete in the global economy; and

WHEREAS, North Carolina must ensure significant improvements in the quality and quantity of its educational and training programs to attain and maintain a world-class workforce; and

WHEREAS, the private sector, along with the workforce development agencies must lead North Carolina's efforts to develop an integrated workforce development system; and

WHEREAS, private sector led Workforce Development Boards can serve as vital local bodies which can provide comprehensive and integrated policy guidance for all publicly funded workforce development services; and

WHEREAS, Workforce Development Boards can also play an invaluable role in mobilizing and encouraging investments by North Carolina employers and citizens in skill upgrading and lifelong learning so that our state's workforce remains an internationally competitive asset; and

WHEREAS, the United States Department of Labor has granted the State of North Carolina funding to implement a one-stop career center system; and

WHEREAS, the local governance body for the One Stop Career Centers in North Carolina will be private sector led Workforce Development Boards in collaboration with State and local education, employment, and training agency partners;

NOW THEREFORE, by the authority vested in me as Governor by the Constitution and laws of North Carolina and the United States, it is ORDERED:

Section 1. ESTABLISHMENT.

A. The Private Industry Councils (PICs) operating in the sub-state service delivery areas under provisions of the Federal Job Training Partnership Act are hereby designated and established as North Carolina's local or regional Workforce Development Boards for continuing purposes of the Federal Job Training Partnership Act and as the governance boards for the One Stop Career Centers to be established under North Carolina's One Stop Career Center system. Additionally, to achieve coordination with statewide economic development planning and policy, local or regional Workforce Development Boards will be linked with the appropriate region(s) of the North Carolina Partnership for Economic Development.

B. The local or regional Workforce Development Boards designated and established under the powers of this Executive Order are considered an interim step until the issues of sub-state service areas and local or regional planning and governance boards are addressed by pending Federal workforce development "block grant" legislation.

Section 2. MEMBERSHIP.

A. Membership of Workforce Development Boards shall be as specified under Section 102 of the Federal Job Training Partnership Act.

B. Procedures for nominations, appointments, and terms of office shall be under the provisions of Section 102 of the Federal Job Training Partnership Act, and continue the requirement to have a private sector chair and at least 51% of its membership from private sector employers. Local elected officials shall continue in their role of appointing authority as specified in the Federal Job Training Partnership Act.

C. Membership of currently existing Private Industry Councils will be certified as being in accordance with the provisions of the Federal Job Training Partnership Act by the Commission on Workforce Preparedness prior to designation of existing Private Industry Councils as Workforce Development Boards.

D. Chairperson, officers, and organizations shall be as specified under provisions of the Federal Job Training Partnership Act and under the locally developed workplans to address the functions and purposes of the organization.

Section 3. DUTIES AND RESPONSIBILITIES

A. Duties and responsibilities of the local or regional Workforce Development Boards are as follows:

1. Plan and oversee the delivery of all workforce development programs specified as responsibilities of the Private Industry Councils under the Federal Job Training Partnership Act and of North Carolina's One Stop Career Center system;
2. Advise local elected officials, employers, local education agencies, and community colleges, State and local employment and training agencies and citizens about policy, programs and other information relative to their service area workforce;
3. Serve as a point of contact for business, industry, and the public sector to communicate their workforce needs;
4. Develop a local plan in coordination with appropriate community partners that addresses the workforce development needs of their service area, which is responsive to the goals, objectives, and performance standards established by the Governor;
5. Collaborate with the local JobReady Council(s), local education agencies and local community colleges in the development of school-to-work plans;
6. Review and approve local Job Ready plans for submission to the State JobReady Partnership Council;
7. Develop industry or sector cluster analysis in order to set training priorities in the service area;
8. Charter career centers, monitor activities, and evaluate the performance of the career centers, programs, and activities; and
9. Develop linkages with regional and local economic development efforts and activities in the service area and promote cooperation and coordination among public organizations, community organizations, education agencies and private businesses.

B.. Workforce Development Boards shall not operate or manage One-Stop Career Centers but shall serve in the role of governance providing planning, monitoring, evaluation, and oversight.

Section 4. WORKFORCE DEVELOPMENT PROGRAMS.

A. In addition to the duties, responsibilities, and authority identified in the Federal Job Training Partnership Act, under authority of this Executive Order, local or regional Workforce Development Boards, with private sector and key agency partners represented, will have planning and oversight responsibilities for the following programs and activities when and where operated in one stop career centers: programs of the Job Training Partnership Act, the Employment Service, the Work First (JOBS) welfare training and placement programs, the Food Stamp Employment and Training Program, the Older Americans Act Job Training and Employment Program, Vocational Rehabilitation programs, and the JobReady school to work programs.

B. The authority granted under this section does not give local or regional Workforce Development Boards any direct authority or control over workforce development funds and programs in the service area other than programs specifically identified as under the provisions of section 4-A of the Executive Order.

Section 5. COOPERATION OF STATE AGENCIES.

A. All state agencies and their local service delivery entities shall cooperate with the Commission on Workforce Preparedness and the local or regional Workforce Development Boards as this local governance process is implemented. Also, the Commission on Workforce Preparedness shall cooperate with all State and local employment and training agencies in implementation of this local governance structure.

B. Community colleges and Workforce Development Boards shall coordinate in planning, design, and delivery of vocational, technical, and basic skill education and training for clients referred from One Stop Career Centers.

Section 6. ADMINISTRATION AND EXPENSES.

The operating budget for professional and administrative support to local or regional Workforce Development Boards shall derive from the current Federal Job Training Partnership Act, as is now the method for supporting the Private Industry Councils, and from additional funding sources identified from the federal and state participating programs and agencies in the area one

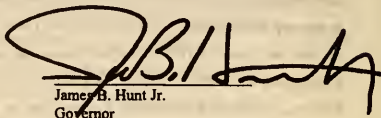
stop career centers. Therefore, it is anticipated that after transitioning into Workforce Development Boards, multiple funding sources derived from the federal and state workforce development programs will be available for professional and administrative support of the Workforce Development Boards.

This Executive Order shall become effective immediately, and shall remain effective until superseded by subsequent federal or state legislation or a new Executive Order.

Done in the Capital City of Raleigh, North Carolina this 5th day of

December, 1995.




James B. Hunt Jr.
Governor

ATTEST:


Rufus L. Edmisten
Secretary of State

State of North Carolina



JAMES B. HUNT JR.
GOVERNOR

EXECUTIVE ORDER NO. 91 PERSIAN GULF WAR MEMORIAL COMMISSION

WHEREAS, the purposes of the Commission established by Executive Order No. 33 have been fulfilled; and

WHEREAS, a new Commission is needed to establish memorials to the fighting men and women of North Carolina who served admirably in the Persian Gulf War;

NOW, THEREFORE, by the power vested in me as Governor by the Constitution and laws of North Carolina, IT IS ORDERED:

Section 1. Establishment and Membership.

There is hereby established the Persian Gulf War Memorial Commission whose membership shall consist of:

- A. Two (2) persons appointed by the Governor upon the recommendation of the Speaker of the House of Representatives;
- B. Two (2) persons appointed by the Governor upon the recommendation of the President Pro Tempore of the Senate;
- C. Five (5) persons appointed by the Governor including one representative of the N. C. Desert Storm Memorial Foundation; and
- D. One (1) representative of the Department of Cultural Resources, one (1) representative of the Division of Veterans Affairs of the Department of Administration, and one (1) representative of the State Capitol Planning Commission appointed by the Governor as non-voting ex-officio members.

The members of the Commission shall serve for the life of the Commission. From among the membership, the Governor shall appoint the Chair. The Commission shall meet at the

call of the Chair. Procedures involving the existence of a quorum and the filling of vacant seats shall be governed by N.C.G.S. 143B-133. No person shall be appointed to the Commission if he or she currently holds a state-level elected office or is a member of the Governor's cabinet.

Section 2. Purpose.

The Commission shall create a design for the construction of a Persian Gulf War Memorial, and make recommendations on site selection and funding sources. The Commission shall study the concept of a state veterans park located outside the Raleigh area and recommend plans for design, location, and funding. The Commission shall issue a final report by March 15, 1996.

Section 3. Administration.

Administrative support for the Commission shall be provided by the Department of Administration. There shall be no per diem paid to members of the Commission; however, necessary travel and subsistence allowance may be paid in accordance with state law and availability of funds.

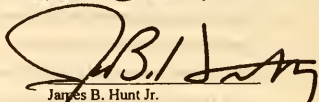
Section 4. Rescission.

Executive Order No. 33 (Persian Gulf War Memorial Commission) dated November 10, 1993, and Executive Order No. 82 dated July 27, 1995 are hereby rescinded. All of the Commission's files, records, etc., shall be transferred to the successor Commission created herein.

This Order shall be effective immediately.

Done in Raleigh, North Carolina, this the 13th day of December, 1995.




James B. Hunt Jr.
Governor

ATTEST


Rufus L. Edmisten
Secretary of State

State of North Carolina



JAMES B. HUNT JR.
GOVERNOR

EXECUTIVE ORDER NO. 92 COUNCIL FOR YOUNG ADULT DRIVERS

WHEREAS, a significant number of traffic related injuries and fatalities involve young adults who have recently become licensed drivers; and

WHEREAS, injury producing crashes by young adult drivers result in total comprehensive costs to the State of North Carolina of over 400 million dollars annually; and

WHEREAS, drivers under the age of 21 are over represented in all categories of crashes, injuries, and fatalities; and

WHEREAS, in North Carolina, 16-year-old drivers are nearly 5 times more likely to be involved in a vehicle crash than adults age 25 and older, and 17-year-old drivers are more than 3 times more likely to crash; and

WHEREAS, traffic crashes are the leading cause of permanent injury and fatalities to young adults in the State of North Carolina, and

WHEREAS, the human suffering and loss endured by those involved in crashes and vehicular deaths involving the newly licensed driver can be lessened by programs designed to target those young adults, and

WHEREAS, if North Carolina is to succeed in reaching youthful drivers with educational and awareness messages of driving safety, we must first draw from North Carolina communities the members of that age group who can guide and direct us in creating and structuring the message to be relevant to that audience, and

WHEREAS, a grassroots effort guided by regional and statewide councils made up of young adults and members of relevant state agencies, can be effective in guiding efforts directed at improving driving safety and awareness of youthful drivers.

NOW, THEREFORE, by the authority vested in me as Governor by the laws and Constitution of the State of North Carolina, IT IS ORDERED:

Section 1. Establishment.

The Governor's Council for Young Adult Drivers is established. The Council shall be an advisory committee to the Governor's Highway Safety Commission. The Council shall be composed of not more than twenty-five members appointed by the Governor to serve at the pleasure of the Governor plus up to six members elected annually by the regional councils authorized by this order. Members of the Council shall consist of students and young adults selected from those who have demonstrated an interest in promoting the safety and well-being of their peers by reducing the devastation and human suffering due to automobile crashes. Members will be charged with researching and presenting the views of young adults from within their respective school district representing the geographical areas of the state. Members of the Council shall also be appointed to represent several state agencies having the responsibility to assist in the education of youthful drivers. The Governor shall designate one of the members as Chair and one as Vice Chair.

Section 2. Regional Councils.

The Council shall have the authority to establish up to six regional councils, made up of student members from each of the respective school districts within the regions, to promote efforts of increasing awareness for highway safety topics, and in drawing community input. The Council shall have the power to select the appropriate number of delegates to serve as members of the regional councils. Each regional council shall have the power to select one delegate to serve on the Council board.

Section 3. Duties.

Through coordination with the school districts and the regional councils, the Council shall research and evaluate the problems of young adult automobile crashes as directed by the board and return recommendations and program suggestions designed to

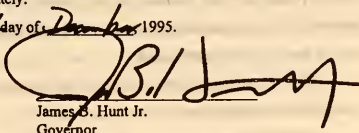
reduce automobile crashes, injuries and fatalities among young drivers. The Council shall review and select from recommendations, programs and suggestions to establish the guidelines, direction and curricula designed to promote safe driving by young adult drivers in North Carolina. The Council shall issue its recommendations annually, providing those to the Governor, the Speaker of the North Carolina House of Representatives, the President Pro-Tempore of the North Carolina Senate and the Chairman of the North Carolina State Board of Education and the Governor's Highway Safety Commission. Once approved, the programs and recommendations presented to the Governor shall be distributed as the official State of North Carolina Young Adult Traffic Safety Plan.

Section 4. Administration and Expenses.

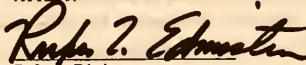
Members shall receive no remuneration for their services. Funds for operating the Council shall be made available from funds authorized by the Governor's Highway Safety Program. The Youth Traffic Safety Coordinator of the Governor's Highway Safety Program shall serve as staff director of the Council. All state agencies are hereby directed to provide such assistance as shall be required by the Council to the end that the purpose of this executive order may be effectuated.

This Order is effective immediately.

Done in Raleigh, this the 13th day of December 1995.


James B. Hunt Jr.
Governor

ATTEST:


Rufus L. Edmisten
Secretary of State



State of North Carolina



JAMES B. HUNT JR.
GOVERNOR

EXECUTIVE ORDER NO. 93 NORTH CAROLINA/EASTERN BAND OF CHEROKEE INDIANS DEVELOPMENT TASK FORCE

WHEREAS, the Eastern Band of Cherokee Indians plays a vital role in the economy and culture of North Carolina; and

WHEREAS, the Eastern Band of Cherokee Indians draws strength from their traditions dating back to the spirit of Sequoyah and Junaluska and the earliest days of the nation when the tribe was recognized as the most independent and prosperous of the Native American Indian Tribes; and

WHEREAS, the Eastern Band of Cherokee Indians and the six western counties of North Carolina (Cherokee, Clay, Graham, Jackson, Macon, and Swain) are facing great challenges in the area of economic development because of limited infrastructure, steep terrain and limited land for development purposes; and

WHEREAS, unemployment both on the Cherokee Reservation and in the adjacent counties is much higher than the state average; and

WHEREAS, per capita income both on the Cherokee Reservation and in the adjacent counties is much lower than the state average; and

WHEREAS, the poverty rate both on the Cherokee Reservation and in the adjacent counties is much higher than the state average.

NOW THEREFORE, by the authority vested in me as Governor by the Constitution and laws of North Carolina and the United States, it is ORDERED:

Section 1. ESTABLISHMENT.

The North Carolina/Eastern Band of Cherokee Indians Economic Development Task Force is hereby established. It shall be comprised of twenty-eight members, twelve of whom shall be appointed by the Governor and twelve appointed by the Principal Chief of the Eastern Band of Cherokee Indians. Members shall serve for two years at the pleasure of the appointing authority. In addition to the appointed members, the following or their designees, shall serve as ex-officio, non-voting members:

- (1) Regional Supervisor, U.S. Forest Service;
- (2) Superintendent, Blue Ridge Parkway;
- (3) Superintendent, Great Smoky Mountains National Park; and
- (4) Chairman of the Board, Tennessee Valley Authority.

The Governor and the Principal Chief shall each designate one of the voting members as co-chairpersons who shall preside jointly at each meeting.

Section 2. MEETINGS.

The Task Force shall meet quarterly or at the call of the co-chairpersons.

Section 3. DUTIES.

The Task Force shall have the following duties:

- (a) Develop an economic development strategy for the Eastern Band of Cherokee Indians;
- (b) Provide a forum for the discussion of issues concerning major business installations;
- (c) Promote cooperation and understanding between the Eastern Band of Cherokee Indians, the general public, and State, federal and local governments; and
- (d) Advise the Governor and Principal Chief on measures and activities which would support and assist the people of the Eastern Band and promote economic development.

Section 4. ADMINISTRATION.

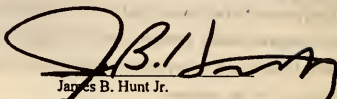
Support staff for the Task Force shall be provided by the North Carolina Department of Commerce. Members shall serve without compensation, but may receive reimbursement, contingent upon the availability of funds, for travel and subsistence in accordance with N.C.G.S. 138-5, 138-6, and 120-3.1.

This Executive Order shall be effective immediately.

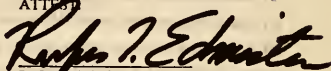
Done in the Capital City of Raleigh, North Carolina this 21st day of

December, 1995.




James B. Hunt Jr.
Governor

ATTEST


Rufus L. Edmisten
Secretary of State

State of North Carolina



JAMES B. HUNT JR.
GOVERNOR

EXECUTIVE ORDER NO. 94 ESTABLISHING THE NORTH CAROLINA ALLIANCE FOR COMPETITIVE TECHNOLOGIES (NC ACTs)

WHEREAS, the development and promotion of a technology-based economy is critical to the long-term welfare of the State and its citizenry;

WHEREAS, the State has invested substantial funds in public and quasi-public not-for-profit institutions charged with the development and deployment of technology to create commercial products and modernize manufacturing production; and

WHEREAS, the State has the potential to form a world class delivery and support system for technological innovation and manufacturing modernization;

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and laws of the State of North Carolina, IT IS ORDERED:

Section 1. Establishment.

The North Carolina Alliance for Competitive Technologies (the "Alliance") is hereby established.

Section 2. Purpose.

A. The Alliance has been established to apply innovation, technology and technical resources to promote economic growth in the State. It will serve as a central, strategic organization to guide existing resources and develop additional resources as necessary. It will insure the availability of a set of comprehensive, coordinated resources to meet industry needs for innovation and modernization.

The Alliance has three primary objectives:

1. To develop a comprehensive strategy and vision to guide the use of state public resources devoted to technology development and deployment;
2. To organize public and private entities involved in technology to insure a rational, customer-driven delivery system that measures and rewards results; and
3. To match State investments with federal and other public and private investments for those initiatives critical to achievement of the State's technology strategy and its implementation.

B. The Alliance shall serve as a planning and coordinating organization for the State, charting future directions based on analyses of needs, demands and opportunities, and recommending future public investments in support of the State's overall technology strategy.

C. The Alliance shall work specifically with legislatively established entities, such as the Information Resource Management Commission (IRMC), to assist them in their activities and oversight functions related to specific technologies.

D. The Alliance shall coordinate state agencies and state-supported organizations involved in technology in accordance with a coherent long-range strategy for application of technological resources to industry needs and economic development of the State.

E. The Alliance shall strive to maintain North Carolina's technology leadership and further develop the infrastructure to maintain its competitive position.

Section 3. Responsibilities.

The Alliance shall have the following functions and responsibilities:

- A. To maintain an office with a board of directors representative of the public and private sectors;
- B. To conduct needs analyses of selective industries and systems capacity reviews in order to insure a delivery system accountable to its industry clients;
- C. To develop common outcome-based evaluation standards and performance benchmarks for technology service providers;
- D. To design a strategy for statewide and regional industrial centers of excellence, taking into account existing centers and their capabilities;

E. To propose additional incentive systems to encourage adherence to strategies by providers, higher education institutions, and non-profit organizations involved in the technology development and deployment system;

F. To provide recommendations on the strategic and effective use of state technology investments for long-term economic development;

G. To review the State's existing infrastructure investments and analyze what additional investments are necessary in order to develop and maintain the competitiveness of North Carolina's industry; and

H. To undertake such other activities as are necessary to accomplish the above items.

Section 4. Board of Directors.

A. The Alliance shall have a Board of Directors of twenty-six (26) persons appointed by the Governor from the public and private sectors with a majority of members coming from the private sector. Nine (9) directors shall be appointed from educational institutions, government, and non-profit institutions. Thirteen (13) directors shall be appointed from private sector industry and technology fields, including but not limited to, pharmaceuticals and chemicals, environmental resources, food processing, furniture, information technologies, metals, paper, polymers, textiles, transportation, exports and wood products. One third of the directors shall serve one-year terms; one third shall serve two-year terms; and one third shall serve three-year terms. Directors appointed or reappointed thereafter shall serve three-year terms. One director shall be appointed on an annual basis to represent the non-profit sector.

The Speaker of the North Carolina House of Representatives and the President Pro Tempore of the North Carolina Senate shall each nominate two members each, a Democrat and a Republican, who shall serve terms concurrent with their terms of office. The Governor shall appoint their nominees.

B. The Governor shall designate the Chair and Vice-Chair of the Board of Directors.

C. The responsibilities of the Board of Directors shall be advisory in nature to the Governor and the General Assembly. Their duties shall include:

1. Approval of policies, regulations, and by-laws that are necessary to form and operate the organization;

2. Oversight of the policies and plans of the Alliance, including the strategic plan, studies of needs, gaps in service delivery, and performance standards;

3. Implementation of procedures to insure cooperation with other parts of State government;

4. Adoption of a proposal for staffing the Alliance;

5. Approval of an operating plan for the Alliance; and

6. Identification of other activities and priorities that should be undertaken by the Alliance.

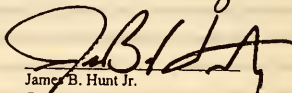
Section 5. Administration.

The Alliance shall be funded from federal and state matching funds. For administrative purposes, the Alliance shall be housed in the Department of Commerce, with further oversight from the Office of the Governor.

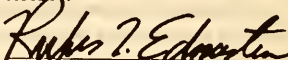
This Order shall be effective immediately. Executive Orders No. 63 and 80 are hereby rescinded.

Done in Raleigh, North Carolina, this the 26th day of February 1996.




James B. Hunt Jr.
Governor

ATTEST:


Rufus L. Edmisten
Secretary of State

State of North Carolina



JAMES B. HUNT JR.
GOVERNOR

EXECUTIVE ORDER NO. 95 COUNCIL ON HEALTH POLICY INFORMATION

WHEREAS, the value of reliable, timely, and comprehensive health information is crucial for policy-making and program management; and,

WHEREAS, every effort must be made to remove obstacles which hinder the use of data by health policy makers; and,

WHEREAS, interagency communication and cooperation is necessary for agencies responsible for the creation of effective health policy since no single umbrella agency has authority for all health programs; and,

WHEREAS, North Carolina has been awarded funds from the Robert Wood Johnson Foundation to develop a comprehensive State health data plan to enhance the use of health data for policy decision-making and program management.

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and laws of the State of North Carolina, IT IS ORDERED:

Section 1. Establishment and Rescission.

The Council on Health Policy Information ("the Council") is hereby established. Hunt Administration Executive Order 38 is hereby rescinded. This Council is the successor organization to that one.

Section 2. Members of the Council.

A. There shall be 37 members of the Council. The membership shall include the following persons or their designees:

- (1) State Health Director, DEHNR;
- (2) Governor's Advisor for Policy, Budget and Technology;

- (3) Director of the Division of Medical Assistance, DHR;
- (4) Director of the Office of State Planning, Office of the Governor;
- (5) State Budget Officer, Office of the Governor;
- (6) Director of the Office of Rural Health and Resources Development, DHR;
- (7) Director of the Division of Aging, DHR;
- (8) Director of the Division of Social Services, DHR;
- (9) Director of the Division of Facility Services, DHR;
- (10) Director of the Division of Mental Health, Developmental Disabilities, and Substance Abuse, DHR;
- (11) Chair of the State Health Coordinating Council, DHR;
- (12) Chair of the Commission for Health Services, DEHNR;
- (13) Director of the Division of Maternal and Child Health, DEHNR;
- (14) Executive Director of the North Carolina Health Care Reform Commission;
- (15) Chair of the Minority Health Advisory Council, DEHNR;
- (16) Director of the Health Policy Unit of the Cecil G. Sheps Center for Health Services Research, University of North Carolina at Chapel Hill;
- (17) Director of the State Center for Health and Environmental Statistics, DEHNR;
- (18) Two representatives of certified statewide data processors doing business in North Carolina, named by the Governor;
- (19) Two representatives of private insurance companies doing business within North Carolina, named by the Governor;
- (20) One member of the North Carolina House of Representatives, named by the Governor upon recommendation by the Speaker of the House;
- (21) One member of the North Carolina State Senate, named by the Governor upon recommendation by the President Pro Tempore of the Senate;
- (22) Commissioner of the Department of Insurance;
- (23) Commissioner of the Department of Labor;
- (24) President of the North Carolina Health Care Facilities Association;

- (25) President of the North Carolina Association of Local Health Directors;
- (26) President of the North Carolina Hospital Association;
- (27) Executive Director of the North Carolina Association for Home Care;
- (28) Executive Director of the North Carolina Association of Long-Term Care Facilities;
- (29) President of the North Carolina Medical Society;
- (30) President of the Old North State Medical Society;
- (31) Director of the Duke University Center for Health Policy Research and Education;
- (32) President of North Carolina Citizens for Business and Industry;
- (33) President of the North Carolina Child Advocacy Institute;
- (34) Executive Director of the North Carolina Partnership for Children, Inc.;
- (35) Executive Director of the State Health Plan Purchasing Alliance Board.

B. The Chair and Assistant Chair shall be selected by the members of the Council.

All members shall serve at the pleasure of the Governor. All vacancies shall be filled by the Governor.

Section 3. Functions.

A. The Council shall meet monthly or at the call of the Chair.

B. The Council shall submit to the Governor a State Health Data Plan which outlines:

(1) how North Carolina can further enhance data-based health policy-making through improved health statistics and information systems; and

(2) how best to institutionalize a process for collaborative health policy formulation and implementation.

C. To execute its responsibilities, the Council shall have the power to:

(1) collect existing program data and request additional data from public and private sources as needed;

(2) hold public hearings; and

(3) set up ad hoc committees.

Section 4. Administration.

A. Financial support for the Council shall be provided only through a grant from the Robert Wood Johnson Foundation, to be administered by DEHNR pursuant to the Executive Budget Act.

B. Members of the Council shall be reimbursed for necessary travel and subsistence expenses as authorized under state law. Funds for such expenses shall be made available from funds provided by the grant from the Robert Wood Johnson Foundation.

C. The continuation of this Executive Order, or any renewal or extension thereof, is dependent upon and subject to the availability of funds for the purposes set forth herein (See N.C.G.S. 143-34.2).

This Executive Order shall become effective immediately.

Done in Raleigh, North Carolina, this the 24th day of April, 1996.



James B. Hunt Jr.
Governor

ATTEST:

Janice H. Faulkner
Secretary of State

State of North Carolina



JAMES B. HUNT JR.
GOVERNOR

EXECUTIVE ORDER NO. 96 TASK FORCE ON RACIAL OR RELIGIOUS VIOLENCE AND INTIMIDATION

It is the policy of the State of North Carolina to protect the right of every person in the state to worship freely without fear or threat of violence and intimidation. Freedom from crime and freedom to worship are basic civil rights of all our citizens. We oppose all those who espouse hatred and violence as a means to intimidate anyone who seeks to exercise their constitutional rights and freedoms.

NOW THEREFORE, by the authority vested in me as Governor by the Constitution and laws of North Carolina, it is ORDERED:

Section 1.

There is hereby established the Task Force on Racial or Religious Violence and Intimidation.

Section 2.

The Task Force shall consist of 21 persons to include the following:

- (1) The Attorney General;
- (2) The Secretary of Crime Control and Public Safety;
- (3) The Director of the State Bureau of Investigation;
- (4) The Chairperson of the North Carolina Human Relations Commission;
- (5) The Chairperson of the Martin Luther King Jr. Commission;
- (6) 16 persons appointed by the Governor as follows:
 - (a) A District Attorney
 - (b) A United States Attorney

- (c) A Police Chief
- (d) A Sheriff
- (e) A member of the North Carolina Senate
- (f) A member of the North Carolina House of Representatives
- (g) A representative of the Federal Bureau of Investigation
- (h) A representative of the Bureau of Alcohol, Tobacco and Firearms
- (i) Four ministers
- (j) Four citizens at-large

Each such person shall serve for a term expiring December 31, 1996.

The Chairperson of the Task Force shall be the Attorney General. The Vice Chairperson shall be appointed by the Governor.

Section 3.

The Task Force shall meet as frequently as needed. The first meeting of the Task Force shall be held as soon as possible after the appointment of its members.

Section 4.

The Task Force shall perform such duties as are assigned by the Governor and the Attorney General and shall work closely with the staff of the North Carolina Human Relations Commission and the North Carolina Department of Justice. The following shall be among its duties:

- (a) Establish a uniform statewide system for reporting, recording and responding to incidences of arson, vandalism and bomb threats against churches and other institutions, and racial or religious groups or associations;
- (b) Establish a central location for the collection, analysis and dissemination of data relating to racial and religious violence;
- (c) Research policies, procedures and laws pertaining to hate group activities and racially motivated violence and intimidation, and recommend changes where needed to existing legislation;

- (d) Establish a statewide assistance and support network for churches and other institutions and racial or religious groups or associations that are victims of racial or religious violence and intimidation;
- (e) Educate the public and law enforcement officials about racial and religious violence and intimidation and provide training in responding to such activity;
- (f) Coordinate all activities related to racial and religious violence and develop a plan of implementation and monitoring;
- (g) Encourage and facilitate cooperation and coordination of all law enforcement activities dealing with racial or religious violence and intimidation; and
- (h) Update the Governor at regular intervals on the status of the Task Force activities and submit a final report by December 31, 1996.

Section 5.

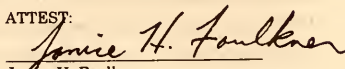
While on official business, members of the Task Force shall be entitled to reimbursement for travel and subsistence as may be authorized for members of State boards and commissions generally. The North Carolina Human Relations Commission and the North Carolina Department of Justice shall provide planning and administrative support for the Task Force.

This Executive Order shall become effective immediately and shall remain in effect until December 31, 1996.

Done in the Capital City of Raleigh, North Carolina this 14th day of June, 1996.


James B. Hunt Jr.
Governor

ATTEST:


Janice H. Faulkner
Secretary of State

State of North Carolina



JAMES B. HUNT JR.
GOVERNOR

EXECUTIVE ORDER NO. 97 EMERGENCY RELIEF FOR DAMAGE CAUSED BY HURRICANE BERTHA

WHEREAS, I have proclaimed that a state of emergency and threatened disaster exists in certain areas of North Carolina due to Hurricane Bertha; and

WHEREAS, the United States Department of Transportation, in conjunction with the North Carolina Department of Transportation, has declared a regional emergency justifying an exemption from 49 C.F.R. 390-399 (Federal Motor Carrier Safety Regulations); and

WHEREAS, under the provisions of N.C.G.S. 166A-4(3) and 166A-6(c)(3), the Governor, with the concurrence of the Council of State, may regulate and control the flow of vehicular traffic and the operation of transportation services; and

WHEREAS, with the concurrence of the Council of State, I have found that if vehicles bearing food, equipment, and supplies to relieve our hurricane-stricken counties must adhere to the weight restrictions of N.C.G.S. 20-88, 20-96 and 20-118, citizens those counties likely will suffer losses and, therefore, there is an imminent threat of widespread damage within the meaning of N.C.G.S. 166A-4(3);

THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and laws of this State, and with the concurrence of the Council of State, IT IS ORDERED:

Section 1. The Division of Motor Vehicles shall waive restrictions and penalties therefor arising under N.C.G.S. 20-88, 20-96, and 20-118 for vehicles transporting food, equipment, and supplies, including necessary utility vehicles along our highways to North Carolina's hurricane-stricken counties.

Section 2. Notwithstanding the waivers set forth above, restrictions and penalties shall not be waived under the following conditions:

- (A) When the vehicle weight exceeds the maximum gross vehicle weight criteria established by the manufacturer (GVWR) or 90,000 pounds gross vehicle weight, whichever is less.
- (B) When tandem axle weights exceed 42,000 pounds and single axle weights exceed 22,000 pounds.
- (C) When vehicle/vehicle combination exceeds 12 feet in width and a total overall combination vehicle length of 65 feet from bumper to bumper.

Section 3.

- (A) Upon entering North Carolina, the vehicles will stop at the first available vehicle weight station and produce identification sufficient to establish that its load will be used for the Hurricane Bertha relief effort. All other safety restrictions apply. If returning vehicles are loaded with some other backhaul, all normal weight and permit restrictions apply.
- (B) The \$50.00 fee listed in N.C.G.S. 105-449.49 for a temporary trip permit is waived for the vehicles described above. The penalties described in N.C.G.S. 20-382 concerning insurance registration are waived also. Finally, no quarterly fuel tax is required because the exception in N.C.G.S. 105-449.45(a)(1) applies.
- (C) The vehicles will be allowed only in primary and interstate routes designated by the North Carolina Department of Transportation.

Section 4. Vehicles described in Section 1 which are nonparticipants in North Carolina's International Registration Plan will be permitted to pass through North Carolina in accordance with the spirit of the exemptions identified by this Executive Order.

Section 5. The North Carolina Department of Transportation shall enforce the conditions set forth in Sections 1, 2, and 3 in a manner in which would best accomplish the implementation of this rule without endangering motorists in North Carolina.

Section 6. This Order shall not be in effect on bridges posted pursuant to N.C.G.S. 136-72.

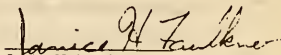
This Executive Order shall be effective immediately and shall remain in effect for 30 days.

Done in the Capital City of Raleigh, North Carolina this 12th day of July, 1996.




James B. Hunt Jr.
Governor

ATTEST:


Janice H. Faulkner
Secretary of State

State of North Carolina



JAMES B. HUNT JR.
GOVERNOR

EXECUTIVE ORDER NO. 98 AMENDING E.O. NO. 97 CONCERNING EMERGENCY RELIEF FOR DAMAGE CAUSED BY HURRICANE BERTHA


WHEREAS, Executive Order No. 97 was issued by me to provide emergency relief for damage caused by Hurricane Bertha by waiving certain size and weight restrictions for certain vehicles; and

WHEREAS, Executive Order No. 97 by its terms will expire on August 11, 1996; and

WHEREAS, I have determined that relief and recovery from damage caused by Hurricane Bertha and the resulting need for the provisions of Executive Order No. 97 will continue beyond August 11, 1996.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and laws of this State, IT IS ORDERED that the provisions of Executive Order No. 97 remain in force until September 1, 1996.

Done in the Capital City of Raleigh, North Carolina this 9th day of August, 1996.


James B. Hunt Jr.
Governor

ATTEST:


Janice H. Faulkner
Secretary of State



State of North Carolina



JAMES B. HUNT JR.
GOVERNOR

EXECUTIVE ORDER NO. 99 EMERGENCY RELIEF FOR DAMAGE CAUSED BY HURRICANE FRAN

WHEREAS, I have proclaimed that a state of emergency and threatened disaster exists in North Carolina due to Hurricane Fran; and

WHEREAS, the United States Department of Transportation, in conjunction with the North Carolina Department of Transportation, has declared a regional emergency justifying an exemption from 49 C.F.R. 390-399 (Federal Motor Carrier Safety Regulations); and

WHEREAS, under the provisions of N.C.G.S. 166A-4(3) and 166A-6(c)(3), the Governor, with the concurrence of the Council of State, may regulate and control the flow of vehicular traffic and the operation of transportation services; and

WHEREAS, with the concurrence of the Council of State, I have found that if vehicles bearing food, equipment, and supplies to relieve our hurricane-stricken counties must adhere to the weight restrictions of N.C.G.S. 20-88, 20-96 and 20-118, citizens in those counties likely will suffer losses and, therefore, there is an imminent threat of widespread damage within the meaning of N.C.G.S. 166A-4(3);

THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and laws of this State, and with the concurrence of the Council of State, IT IS ORDERED:

Section 1. The Division of Motor Vehicles shall waive size and weight restrictions and penalties therefor arising under N.C.G.S. 20-88, 20-96, and 20-118 for vehicles transporting food, equipment, and supplies, including necessary utility vehicles along our highways to North Carolina's hurricane-stricken counties.

Section 2. Notwithstanding the waiver set forth above, restrictions and penalties shall not be waived under the following conditions:

- (A) When the vehicle weight exceeds the maximum gross vehicle weight criteria established by the manufacturer (GVWR) or 90,000 pounds gross vehicle weight, whichever is less.
- (B) When tandem axle weights exceed 42,000 pounds and single axle weights exceed 22,000 pounds.
- (C) When vehicle/vehicle combination exceeds 12 feet in width and a total overall combination vehicle length of 65 feet from bumper to bumper.

Section 3.

- (A) Upon entering North Carolina, the vehicles will stop at the first available vehicle weight station and produce identification sufficient to establish that its load will be used for the Hurricane Fran relief and recovery effort. All other safety restrictions apply. If returning vehicles are loaded with backhaul unrelated to Hurricane Fran, all normal weight and permit restrictions apply.
- (B) The \$50.00 fee listed in N.C.G.S. 105-449.49 for a temporary trip permit is waived for the vehicles described above. The penalties described in N.C.G.S. 20-382 concerning insurance registration are waived also. Finally, no quarterly fuel tax is required because the exception in N.C.G.S. 105-449.45(a)(1) applies.
- (C) The vehicles will be allowed only in primary and interstate routes designated by the North Carolina Department of Transportation.

Section 4. Vehicles described in Section 1 which are nonparticipants in North Carolina's International Registration Plan will be permitted to pass through North Carolina in accordance with the spirit of the exemptions identified by this Executive Order.

Section 5. The North Carolina Department of Transportation shall enforce the conditions set forth in Sections 1, 2, and 3 in a manner in which would best

accomplish the implementation of this rule without endangering motorists in North Carolina.

Section 6. This Order shall not be in effect on bridges posted pursuant to N.C.G.S. 136-72.

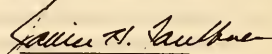
This Executive Order shall be effective immediately and shall remain in effect for 30 days.

Done in the Capital City of Raleigh, North Carolina this 5th day of September, 1996.




James B. Hunt Jr.
Governor

ATTEST:


Janice H. Faulkner
Secretary of State

State of North Carolina



JAMES B. HUNT JR.
GOVERNOR

Executive Order Number 100 Establishing the Government Information Locator Service Coordinating Committee

WHEREAS, North Carolina General Statute 143-3.5 directs the Office of State Planning to coordinate the collection, development, dissemination, and analysis of statistical data in state government; and,

WHEREAS, a global locator service for all state government databases is critical to performance planning and budgeting; and,

WHEREAS, North Carolina General Statute 132-6.1(b) requires that "every public agency shall create an index of computer databases compiled or created by a public agency", but does not require coordination of formats across agencies, indexing of databases created prior to July 1, 1996, or development of a global locator service; and,

WHEREAS, North Carolina state government agencies are developing independent technical solutions for indexing their electronic databases; and,

WHEREAS, North Carolina state government agencies are facing critical issues related to data standards, such as those resulting from the century-compliant date requirements for year 2000, the need to share data across agency boundaries and the requirements for managing software applications as state assets, issues the resolution of which require a searchable inventory of existing databases; and,

WHEREAS, a unified and coordinated effort to develop a global government information locator service would provide agencies with tools for indexing their electronic databases, become a valuable management tool for all agencies, be more cost-effective if done collaboratively rather than each agency developing technical solutions,

improve the public's access to state government information, help to ensure compatibility with the federal Government Information Locator Service (GILS), assist the Information Resource Management Commission with its responsibilities for data management programs, and assist the Office of State Planning in carrying out its missions of performance budgeting and planning and maintenance of a register of statistical data series.

NOW, THEREFORE by the authority vested in me as Governor by the Constitution and laws of the State of North Carolina, IT IS ORDERED:

Section 1. Establishment of the Government Information Locator Service Coordinating Committee

There is hereby established the Government Information Locator Service Coordinating Committee ("Committee").

Section 2. Duties of the Committee

A. Provide leadership and coordination in the development of an electronic Government Information Locator Service in North Carolina that will meet the needs of the state's citizens for improved access to state government information and meet the needs of state agency management for locating information related to measuring and evaluating programs and performance.

B. Establish data indexing content standards for the locator service, adhering to the North Carolina public records law (Chapter 132 of the North Carolina General Statutes) and building upon the "Public Database Indexing Guidelines and Recommendations" developed by the Division of Archives and History, North Carolina Department of Cultural Resources.

C. Establish technical standards for the locator service that will ensure compatibility with nationally and internationally recognized standards of electronic information exchange.

D. Foster collaboration among state agencies to reduce duplication of effort and provide for an efficient and cost-effective locator service.

E. Sponsor the development and demonstration of a prototype project or projects that provide appropriate tools for a global state government information locator service.

F. Encourage and facilitate the development of high quality in data indexing information to describe state agency data resources and provide a sound basis for global indexing.

G. Disseminate information among state agencies regarding standards, technology, indexing protocols, and other aspects of a locator service.

H. Facilitate the exchange of state government information on a regional; national, and international basis.

I. Coordinate data indexing content standards and information locator service prototype development with technology and data transfer standards established by the Information Resource Management Commission.

Section 3. Membership of the Committee

The Director of the Office of State Planning, or designated representative, will Chair the Committee. The State Librarian and the State Archivist, Department of Cultural Resources, will serve as Vice Chairs. The agency heads of the following organizations shall designate members as provided below to serve on the Committee.

A. Two representatives of the Office of State Planning in addition to the Chair;

B. Two representatives of the Department of Cultural Resources in addition to the Vice Chairs;

C. Two representatives of the Department of Administration;

D. Two representatives of the Department of Correction;

E. Two representatives of the Department of Environment, Health, and Natural Resources;

F. Two representatives of the Department of Commerce;

G. Two representatives of the Department of Human Resources;

H. One representative of the Information Resource Management Division, Office of State Controller;

I. One representative of the State Information Processing Services, Office of State Controller;

J. One representative of the Office of State Budget and Management;

K. One representative of the Association of County Commissioners; and

L. One representative of the League of Municipalities.

Additional agencies may be represented on the Committee as determined by the Committee.

Section 4. Agencies' Contributions

Each represented agency will provide in-kind services, especially staff time, towards this Committee. In-kind services include the time invested by Committee members.

Section 5. Sub-Committees

The Committee will establish sub-committees as needed to assist in such areas as technical standards, systems design, and programming.

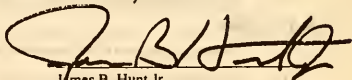
Section 6. Time Period

The Committee will convene by September 13, 1996, meet at least monthly, develop a prototype by December 1996, and will complete its duties by December 1997. This Executive Order shall terminate upon completion of all duties by the Committee.

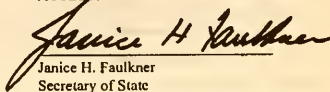
This Executive Order shall become effective immediately.

Done in Raleigh, North Carolina, this 12th day of September, 1996.




James B. Hunt Jr.
Governor

ATTEST:


Janice H. Faulkner
Secretary of State

State of North Carolina



JAMES B. HUNT JR.
GOVERNOR

EXECUTIVE ORDER NO. 101 PSYCHOLOGISTS AND SOCIAL WORKERS LICENSED OR CERTIFIED OUT OF STATE PERMITTED TO PROVIDE CRISIS COUNSELING FOR VICTIMS OF HURRICANE FRAN

WHEREAS, Hurricane Fran has had a devastating impact on the State of North Carolina; and,

WHEREAS, the American Red Cross is able to provide qualified psychologists and social workers licensed or certified outside the State of North Carolina to assist victims of Hurricane Fran, and disaster relief workers, with crisis counseling; and,

WHEREAS, the provision of these psychologists and social workers would be of great value to those in need of such services; and,

WHEREAS, the North Carolina General Statutes and the North Carolina Administrative Code impose certain licensure requirements on out of state psychologists and certification requirements on social workers; and,

WHEREAS, to gain the full benefit of the services to be provided, there is a need to temporarily suspend these requirements.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and laws of this State, IT IS ORDERED:

Section 1. Psychologists licensed outside the State of North Carolina provided by the American Red Cross for the provision of crisis counseling to North Carolina victims of Hurricane Fran, including disaster relief workers, shall be permitted to engage in the practice of psychology in this State, for the limited purposes expressed herein and on a voluntary basis only, for the duration of this Executive Order.

Section 2. Psychologists subject to this Executive Order shall be exempt from the licensure requirements of the North Carolina Psychology Practice Act (North Carolina General Statutes Chapter 90, Article 18A) and any related Administrative Rules within the North Carolina Administrative Code.

Section 3. Social workers licensed outside the State of North Carolina provided by the American Red Cross for the provision of crisis counseling to North Carolina victims of Hurricane Fran, including disaster relief workers, shall be permitted to provide crisis intervention, problem management, case management, and general counseling, for the limited purposes expressed herein and on a voluntary basis only, for the duration of this Executive Order.

Section 4. Social workers subject to this Executive Order shall be exempt from the certification requirements of the North Carolina Social Worker Certification Act (North Carolina General Statutes Chapter 90B) and any related Administrative Rules within the North Carolina Administrative Code.

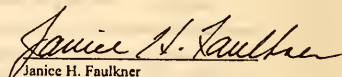
This Executive Order shall be effective immediately and shall remain in effect for thirty days.

Done in the Capital City of Raleigh, North Carolina, this 12th day of September, 1996.




James B. Hunt Jr.
Governor

ATTEST:


Janice H. Faulkner
Secretary of State

State of North Carolina



JAMES B. HUNT JR.
GOVERNOR

EXECUTIVE ORDER NO. 102 AMENDING E.O. NO. 99 CONCERNING EMERGENCY RELIEF FOR DAMAGE CAUSED BY HURRICANE FRAN

WHEREAS, Executive Order No. 99 was issued by me to provide emergency relief for damage caused by Hurricane Fran by waiving certain size and weight restrictions for certain vehicles; and

WHEREAS, Executive Order No. 99 by its terms will expire on October 4, 1996; and

WHEREAS, I have determined that relief and recovery from damage caused by Hurricane Fran and the resulting need for the provisions of Executive Order No. 99 will continue beyond October 4, 1996.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and laws of this State, IT IS ORDERED that the provisions of Executive Order No. 99 remain in force until December 1, 1996.

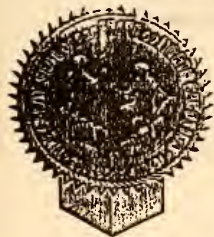
Done in the Capital City of Raleigh, North Carolina this 2nd day of

October, 1996.

James B. Hunt Jr.
Governor

ATTEST:

James H. Faulkner
Secretary of State



State of North Carolina



JAMES B. HUNT JR.
GOVERNOR

**EXECUTIVE ORDER NO. 103
AMENDING E.O. NO. 99 AND E.O. NO. 102
CONCERNING EMERGENCY RELIEF FOR
DAMAGE CAUSED BY HURRICANE FRAN**

By the authority vested in me as Governor by the laws and Constitution of North Carolina, IT IS ORDERED:

Section 1 of Executive Order No. 99 is hereby amended to read:

Section 1. The Division of Motor Vehicles shall waive size and weight restrictions and penalties therefor arising under N.C.G.S. 20-88, 20-96, and 20-118 for vehicles transporting food, equipment, and supplies, including necessary utility vehicles along our highways to North Carolina's hurricane-stricken counties, and vehicles transporting logs and residual products including bark and chips resulting from the salvage of hurricane damaged timber.

Section 3 of Executive Order No. 99 is hereby amended by adding subsection (D) to read:

(D) Trucks transporting logs or residuals under these provisions shall be required to display appropriate identification of such on the driver's side door or windshield and to obtain a written permit from the local state Division of Forest Resources office.

Executive Order No. 102 is hereby amended by adding a new sentence to the fourth paragraph to read:

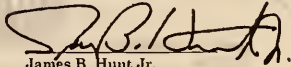
The provisions of Executive Order No. 99 which apply to vehicles transporting logs and residual products shall remain in force until April 1, 1997.

This Executive Order shall be effective immediately.

Done in the Capital City of Raleigh, North Carolina this 10th day of

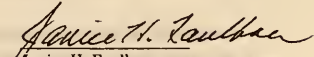
October, 1996.





James B. Hunt Jr.
Governor

ATTEST:


Janice H. Faulkner
Secretary of State

State of North Carolina



JAMES B. HUNT JR.
GOVERNOR

Executive Order No. 104 Creating the North Carolina Disaster Recovery Task Force, Center, and Action Team

WHEREAS, the State of North Carolina suffered extensive damage to its human and physical resources as a result of various natural disasters beginning with the approach and landfall of Hurricane Bertha and continuing with Hurricane Fran and other storms; and,

WHEREAS, the estimates of damage sustained by North Carolina's citizens and their communities far exceed the physical and social costs of any previous natural disasters; and,

WHEREAS, North Carolina is truly grateful for the outpouring of personal and financial assistance from throughout the nation which has assisted with the first phase of recovery; and,

WHEREAS, emergency personnel throughout the state have performed extraordinarily to provide the initial response to this series of disasters; and,

WHEREAS, all fourteen members of North Carolina's Congressional delegation joined with local and state officials to successfully secure critically needed additional resources for our state; and,

WHEREAS, all North Carolinians now must come together to repair, re-build, and plan for our state's long-term recovery and to make North Carolina even better and stronger than before; and,

WHEREAS, such long-term recovery exceeds the capacity of any existing single agency or office to manage with the speed and efficiency the situation demands; and,

WHEREAS, the coordination of the efforts of everyone involved in such recovery activities is crucial to making the best use of precious resources.

NOW, THEREFORE, by the power vested in me as Governor by the laws and Constitution of the State of North Carolina, IT IS ORDERED:

Section 1. The North Carolina Disaster Recovery Task Force

a. **Establishment.** There is hereby established the North Carolina Disaster Recovery Task Force.

b. **Membership.** The Task Force shall be comprised of the following members:

1. The Lieutenant Governor, who shall be Chairman;
2. The Secretary of the Department of Crime Control and Public Safety, who shall be Vice-Chairman;
3. The State Treasurer;
4. The Commissioner of Insurance;
5. The Commissioner of Agriculture;
6. The Superintendent of Public Instruction;
7. The North Carolina Attorney General;
8. The President of the University of North Carolina General Administration;
9. The President of the North Carolina Community College System;
10. The Secretary of the Department of Transportation;
11. The Secretary of the Department of Human Resources;
12. The Secretary of the Department of Environment, Health and Natural Resources;
13. The Secretary of the Department of Commerce;
14. The Secretary of the Department of Correction;
15. The Secretary of the Department of Revenue;
16. The Secretary of the Department of Administration;
17. The Secretary of the Department of Cultural Resources;

18. The President of the North Carolina League of Municipalities;
19. The President of the North Carolina Association of County Commissioners;
20. The State Budget Officer;
21. The Governor's Senior Policy Advisor;
22. The Governor's Senior Advisor; and
23. The Director of the North Carolina Disaster Recovery Center.

Each member of the Task Force may select one alternate from his or her immediate staff (including division directors) to represent the member on the Task Force.

c. **Responsibilities.** The Task Force shall prepare a comprehensive report with recommended actions to ensure North Carolina's long-term recovery from the natural disasters described herein. The report shall be submitted to the Governor by November 30, 1996, and shall provide direction to the North Carolina Disaster Recovery Action Team. In preparing this report, the Task Force shall consider the following:

1. How best to determine the needs and problems resulting from the natural disasters and to establish the priorities for attention and investment among the identified needs and problems;
2. A means by which the costs of satisfying needs and remediating problems can be assessed;
3. A means by which appropriate and available funding sources can be identified to enable North Carolina to rebound to a status exceeding its previous level;
4. How to coordinate with agencies and organizations at all levels to help match sources and uses of funds thereby ensuring the best use of available resources for recovery efforts;
5. How to develop, in cooperation with local and regional agencies, effective strategies to mitigate the impact of future natural hazards and disasters; and

6. An effective way to monitor the recovery effort and thereby provide a means for ongoing assessment of disaster recovery efforts.

d. Meetings. The Task Force shall meet as necessary upon the call of the Chairman, the Vice-Chairman, or the Director of the Disaster Recovery Center.

Section 2. The North Carolina Disaster Recovery Center

a. Establishment. There is hereby created, within the Governor's Office, the North Carolina Disaster Recovery Center.

b. Responsibilities. The Disaster Recovery Center shall provide the day-to-day coordination of all activities identified in this Executive Order, all activities related to the working and actions of the Task Force and the Disaster Recovery Action Team, and any other related responsibilities as determined by the Governor. The Center shall operate under a Center Director who shall report directly to the Governor and function as a senior staff member. The Center Director shall coordinate closely with the Governor's Senior Advisor and shall have the support (financial and staffing) of all state agencies in carrying out these responsibilities.

Section 3. The North Carolina Disaster Recovery Action Team

a. Establishment. There is hereby established the North Carolina Disaster Recovery Action Team.

b. Membership. The Center Director, in consultation with the Director of the Governor's Washington Office, Task Force members and any other agencies or individuals he deems appropriate, shall select the Action Team. In addition to members selected by the Center Director, the Action Team shall include the following:

1. The Chairman of the Disaster Recovery Task Force;
2. The Vice-Chairman of the Disaster Recovery Task Force;
3. One representative of the Governors' Policy Office; and,
4. One representative of the Office of State Planning.

c. Responsibilities. The Action Team shall assist the Center Director in implementing the recommendations contained within the Task Force's November 1996 Report and in carrying out any other disaster recovery actions as instructed by the Governor.

Section 4. Cooperation with Federal Officials and the North Carolina Legislative Branch. The Task Force, Center, and Action Team shall work closely with federal agencies, the State's Congressional delegation, and the North Carolina General Assembly to ensure a coordinated and cooperative approach to disaster relief and recovery. Pursuant to this, information related to disaster recovery efforts shall be readily available to members of North Carolina's Legislature and Congressional delegation.

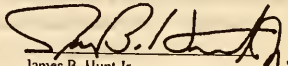
Section 5. Expenses.

All administrative expenses associated with carrying out this Executive Order shall be borne by participating agencies within the Executive Branch as allocated within the sole discretion of the State Budget Officer.

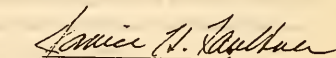
This is effective immediately and shall remain in effect until terminated by subsequent executive order.

Done in the capital city of Raleigh, North Carolina, this the 10th day of October, 1996.




James B. Hunt Jr.
Governor

ATTEST:


Janice H. Faulkner
Secretary of State

State of North Carolina



JAMES B. HUNT JR.
GOVERNOR

EXECUTIVE ORDER NO. 105
AMENDING EXECUTIVE ORDERS NO. 99, 102 AND 103
CONCERNING EMERGENCY RELIEF FOR DAMAGE
CAUSED BY HURRICANE FRAN

WHEREAS, Executive Order No. 99 was issued to provide emergency relief for damage caused by Hurricane Fran by waiving certain size and weight restrictions for certain vehicles; and

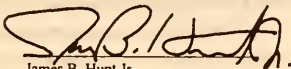

WHEREAS, Executive Order No. 99 has been amended by Executive Order No. 102 and Executive Order No. 103; and

WHEREAS, in order to comply with federal law, there is a need to amend Executive Order No. 99 again.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and laws of this State, IT IS ORDERED:

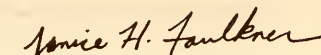
Executive Order No. 99, as amended, is not applicable to the Interstate Highway System within North Carolina. All other provisions of Executive Order No. 99, as amended, shall remain in effect.

Done in Raleigh, North Carolina, this 2nd day of December, 1996.



James B. Hunt Jr.
Governor

ATTEST:



Janice H. Faulkner
Secretary of State

State of North Carolina



JAMES B. HUNT JR.
GOVERNOR

EXECUTIVE ORDER NO. 106 HURRICANE FRAN DISASTER LEAVE

WHEREAS, emergency, catastrophic conditions existed in the aftermath of Hurricane Fran; and,

WHEREAS, a state of emergency was declared as a result of the storm's impact and the Federal Emergency Management Agency designated the following counties as disaster areas: Alamance, Anson, Beaufort, Bertie, Bladen, Brunswick, Buncombe, Caswell, Carteret, Chatham, Chowan, Columbus, Craven, Cumberland, Davidson, Duplin, Durham, Edgecombe, Franklin, Granville, Greene, Guilford, Halifax, Harnett, Henderson, Hertford, Hoke, Hyde, Johnston, Jones, Lee, Lenoir, Martin, Montgomery, Moore, Nash, New Hanover, Northampton, Onslow, Orange, Pamlico, Pender, Person, Pitt, Polk, Randolph, Richmond, Robeson, Rockingham, Rutherford, Sampson, Scotland, Stanly, Vance, Wake, Warren, Wayne, and Wilson; and,

WHEREAS, these disaster areas needed immediate and significant resources, including human resources, to cope with the catastrophe; and,

WHEREAS, under gubernatorial direction, many State employees in the federally-designated disaster areas did not report to work from September 6 through 13, 1996, but rather provided extraordinary assistance in disaster recovery and cleanup; and,

WHEREAS, it is necessary and appropriate to address the manner in which leave time for State employees is to be handled as a result of these disaster recovery and cleanup efforts.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and laws of North Carolina, IT IS ORDERED:

Section 1. Leave and Compensation for the Period from September 6 through September 9, 1996

a. State employees who either live or work in a federally-designated disaster county and were not able to report to work from September 6 through September 9, 1996, because of Hurricane Fran shall not be charged leave for time away from work.

b. State employees who neither live nor work in a federally-designated disaster county but were unable to report to work from September 6 through 9, 1996, because of the hurricane shall be allowed to make up any time lost under the State's adverse weather policy.

c. State employees with job sites in the federally-designated disaster counties shall be granted necessary compensatory time for time worked from September 6 through 9, 1996.

(1) In special circumstances as determined in the sole discretion of the agency head for the agency of employment, employees subject to this subsection "c" may be paid in lieu of compensatory time.

(2) Contract service workers shall not be granted compensatory time, or pay in lieu of such time, except in special circumstances as determined in the sole discretion of the applicable agency head.

Section 2. Leave and Compensation for the Period from September 10 through September 13, 1996

State employees who either live or work in a federally-designated disaster county shall not be required to take leave for time invested in disaster-related cleanup and recovery activities during the period from September 10 through 13, 1996.

Section 3. Employees Providing Emergency and Essential Services

This Executive Order is not applicable to employees providing emergency and essential services. The designation of emergency and essential services shall be made on a case-by-case basis by the head of the agency of employment for the employee in question.

Section 4. Employees of Public Schools, the University of North Carolina System, and the General Court of Justice

Employees of North Carolina's public schools, the University of North Carolina System, and the General Court of Justice shall comply with adverse weather policies or alternative guidelines adopted by their agencies of employment.

Section 5. Temporary Employees

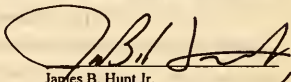

This Executive Order is applicable to employees with temporary as well as permanent appointments.

Section 6. All Other State Employees

Except as otherwise provided herein, State employees shall comply with the adverse weather policy applicable to them in effect prior to the onslaught of Hurricane Fran.

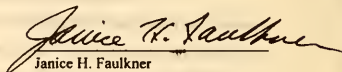
This order shall become effective immediately.

Done in Raleigh, North Carolina, this the 11 day of December, 1996.



James B. Hunt Jr.
Governor

ATTEST:



Janice H. Faulkner
Secretary of State

State of North Carolina



JAMES B. HUNT JR.
GOVERNOR

EXECUTIVE ORDER NO. 107
DESIGNATION OF OFFICE AND HUNT ADMINISTRATION OFFICIALS
AUTHORIZED TO RECEIVE BILLS UNDER ARTICLE II, SECTION 22, OF THE
NORTH CAROLINA CONSTITUTION

WHEREAS, Article II, Section 22, of the North Carolina Constitution provides in part that certain bills must be presented to the Governor; and

WHEREAS, the Constitution does not specify the manner in which presentation is to be made and accepted; and

WHEREAS, from time to time it may be impracticable for bills subject to Section 22 of Article II to be presented personally to the Governor; and

WHEREAS, there is a need to provide a method of presentation for use when personal presentation to the Governor is impracticable.

NOW, THEREFORE, by the authority vested in me by the laws and Constitution of the State of North Carolina, IT IS ORDERED:

Section 1. Designated Office

Any bill subject to Article II, Section 22, of the North Carolina Constitution shall be deemed presented to the Governor upon actual delivery of the original bill to the Office of the Governor's Legislative Counsel in such manner as to ensure that the Governor's Legislative Counsel knows or should know of the bill's presentation.

Section 2. Designated Officials

Any bill subject to Article II, Section 22, of the North Carolina Constitution shall be deemed presented to the Governor upon actual delivery of the original bill to any employee of the Governor's Office designated by a letter to be presented to the office of

the principal clerk of each house prior to the passage of the first bill in each session and updated from time to time as needed.

Section 3. Unacceptable Presentation

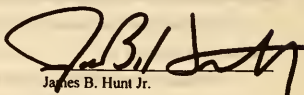
Except as provided herein, no bill shall be deemed presented in compliance with Article II, Section 22, of the North Carolina Constitution unless presented, in original form, personally to Governor James B. Hunt Jr.

Section 4. Term

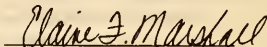
This Executive Order is effective immediately and shall remain in effect until rescinded or amended by subsequent executive order.

Done in the Capital City of Raleigh, North Carolina, this the 20th day of February, 1997.




James B. Hunt Jr.
Governor

ATTEST:


Elaine Marshall
Secretary of State

State of North Carolina



JAMES B. HUNT JR.
GOVERNOR

EXECUTIVE ORDER NO. 108
NORTH CAROLINA INTERIM LEAD ABATEMENT
CERTIFICATION PROGRAM

WHEREAS, lead poisoning is a significant public health problem in North Carolina with approximately 7% of the children screened having elevated blood lead levels; and

WHEREAS, lead poisoning can cause severe damage to developing brains and nervous systems of young children. Low dose lead exposure can reduce intelligence, delay cognitive development, and impair physical growth in children. This can result in lower academic achievement, decreased worker productivity and greater health and human resources costs to the State; and

WHEREAS, old housing, particularly in rural areas, represents 80% of the source of lead exposure to North Carolina's children; and

WHEREAS, General Statute § 130A-131.5 mandates abatement of lead-based paint hazards in dwellings, schools and day care facilities determined to be potential sources of elevated blood lead levels in children less than six years of age; and

WHEREAS, the United States Department of Housing and Urban Development has awarded the North Carolina Department of Commerce (NCDOC) \$4,000,000 in funding for lead abatement. The NCDOC can only disburse these funds to lead abatement contractors certified according to the requirements set forth in the Residential Lead-Based Paint Reduction Act of 1992; and

WHEREAS, North Carolina faces losing the \$4,000,000 in federal funding without a mechanism for the certification of lead abatement contractors; and

WHEREAS, more than 80% of the lead-based paint abatement activities in North Carolina are conducted pursuant to state mandates in response to children with elevated blood lead levels or through specific grants or loans from the North Carolina Department of Commerce, the North Carolina Housing Finance Agency, or federal or state funding mechanisms.

NOW, THEREFORE, by the authority vested in me by the Constitution and laws of the State of North Carolina and the United States of America, IT IS ORDERED:

Section 1. Purpose

The Interim Lead Abatement Certification Program will temporarily certify individuals to perform specified lead abatement activities.

Section 2. Responsibilities of the Department of Environment, Health and Natural Resources

a. Applicability

(1) For this Executive Order, "the Department" shall refer to the Department of Environment, Health, and Natural Resources. "The Program" shall refer to the Interim Lead Abatement Certification Program. "The State" shall refer to the State of North Carolina.

(2) As used in this Executive Order:

(i) "Lead abatement" means any set of measures designed to identify or eliminate lead-based paint and lead-based paint hazards.

(ii) "Lead-based paint" means paint or other surface coatings that contain lead at or greater than an action level determined by the Department.

(iii) A "lead-based paint hazard" means any condition that causes exposure to lead from lead-contaminated dust, soil, or lead-based painted surfaces that would result in adverse effects to children's health.

(iv) "Specified lead abatement activities" include those activities ordered by the State or a local health department or funded by monies granted from the state or federal government for the purpose of lead-based paint hazard abatement, but do not include funds for general rehabilitation purposes.

b. Responsibilities

(1) The Department shall establish an Interim Lead Abatement Certification Program for all individuals performing specified lead abatement activities as set forth in Section 2.a.(2)(iv) above.

(2) The Program will assist such individuals to acquire lead abatement certification. Individuals shall acquire certification before performing specific lead abatement activities as set forth in Section 2.a.(2)(iv).

(3) The Program will certify individuals according to the requirements set forth in the Residential Lead-Based Paint Reduction Act of 1992.

(4) The Program will assure that those specified lead abatement activities as set forth in Section 2.a.(2)(iv) are performed by certified individuals.

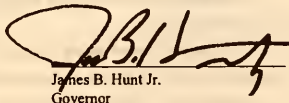
(5) The Department shall continue its efforts to obtain a permanent lead abatement certification program. The Program shall remain in effect until the State fulfills the statutory requirements of Section 404(a) of the Toxic Substance Control Act within the established time limits.

(6) The funding for the Program shall be provided to the Department by the North Carolina Department of Commerce out of funding provided to the NCDOC by the United States Department of Housing and Urban Development.

Section 3. Effective Date

This Executive Order is effective immediately.

Done in the Capital City of Raleigh, North Carolina, this the 24th day of February, 1997.



James B. Hunt Jr.
Governor

ATTEST:



Elaine F. Marshall
Secretary of State



State of North Carolina



JAMES B. HUNT JR.
GOVERNOR

EXECUTIVE ORDER NO. 109
AMENDING EXECUTIVE ORDER NO. 44
NORTH CAROLINA COMMISSION ON BUSINESS LAWS AND THE ECONOMY

By the power vested in me as Governor by the laws and Constitution of the State of North Carolina, IT IS ORDERED:

Section 1.

Provision (a) of Section 1 of Executive Order No. 44 is hereby amended to read as follows:

- (a) Eleven members representing public and private corporations.

Section 2.

Provision (b) of Section 1 of Executive Order No. 44 is hereby amended to read as follows:

- (b) Five practicing attorneys in the State of North Carolina, one of whom shall serve as Reporter for the Commission.

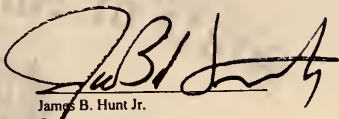

Section 3.

The last sentence of Section 1 of Executive Order No. 44 is hereby amended to read as follows:

The Attorney General and the Secretary of the North Carolina Department of Commerce shall serve as Co-Chairs of the Commission.

This Executive Order shall be effective immediately and shall serve to extend Executive Order No. 44 for two years.

Done in the Capital City of Raleigh, North Carolina, this the 25th day of
March, 1997.



James B. Hunt Jr.
Governor

ATTEST:



Elaine F. Marshall
Secretary of State

State of North Carolina



JAMES B. HUNT JR.
GOVERNOR

EXECUTIVE ORDER NO. 110
AMENDING EXECUTIVE ORDER NO 99
CONCERNING EMERGENCY RELIEF FOR
DAMAGE CAUSED BY HURRICANE FRAN

By the power vested in me as Governor by the Constitution and laws of the State of North Carolina, IT IS ORDERED:

Executive Order No. 99, as previously amended by Executive Orders 102, 103, and 105, is hereby amended as follows:

The provisions of Executive Order No. 99, as amended, which apply to vehicles transporting logs and residual products shall remain in force until June 27, 1997.

This order shall be effective immediately.

Done in Raleigh; North Carolina, this the 27th day of March, 1997.



James B. Hunt Jr.
Governor

ATTEST:


Elaine F. Marshall
Secretary of State

State of North Carolina



JAMES B. HUNT JR.
GOVERNOR

EXECUTIVE ORDER NO. 111
INFORMATION TECHNOLOGY-RELATED
STATE GOVERNMENT FUNCTIONS
TRANSFER OF ADMINISTRATION

WHEREAS, information technology is a critical building block in the foundation of North Carolina's future; and,

WHEREAS, the need to comprehensively plan for North Carolina's information technology future efficiently and effectively is part of planning for the State's future growth; and

WHEREAS, there is a movement across the nation in both the public and private sectors to coordinate and consolidate the strategic resources of information technology under the oversight of the chief executive officer in order to better coordinate and link information technology, planning, services and policy; and,

WHEREAS, the Department of Commerce, which already houses the North Carolina Alliance for Competitive Technologies, works to recruit and retain business and industry; and,

WHEREAS, the use and promotion of information technology in these efforts can aid the State's economic development.

NOW, THEREFORE, by the power vested in me as Governor by the laws and Constitution of the State of North Carolina, IT IS ORDERED:

Section 1

The following agencies and services, including all functions, powers and duties of each, are hereby transferred to the North Carolina Department of Commerce:

- a. Information Resource Management Commission;
- b. State Information Processing Services; and,
- c. State Telecommunications Services.

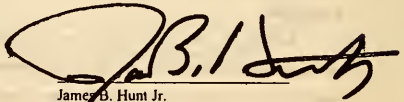
Section 2

Budgetary responsibilities for the agencies and services listed above, and all funds available to the agencies and services, are hereby transferred to the North Carolina Department of Commerce.

Section 3

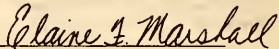
This Executive Order shall become effective upon satisfaction of applicable Constitutional and statutory requirements.

Done in the Capital City of Raleigh, North Carolina, this the 14th day of April, 1997.



James B. Hunt Jr.
Governor

ATTEST:



Elaine F. Marshall
Secretary of State



State of North Carolina



JAMES B. HUNT JR.
GOVERNOR

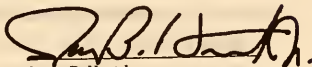

EXECUTIVE ORDER NO. 112
EXTENDING EXECUTIVE ORDER NO. 78

By the power vested in me as Governor by the Constitution and laws of the State of North Carolina, IT IS ORDERED:

Executive Order No. 78 regarding the North Carolina Human Service Transportation Council is hereby extended for two years.

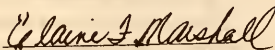
This order shall be effective immediately.

Done in Raleigh, North Carolina, this the 22nd day of May, 1997.

A large, dark, star-shaped seal is positioned on the left side of the page. To its right is a handwritten signature in dark ink, which appears to read "James B. Hunt Jr.".

James B. Hunt Jr.
Governor

ATTEST:

A handwritten signature in dark ink, which appears to read "Elaine F. Marshall".

Elaine F. Marshall
Secretary of State

State of North Carolina



JAMES B. HUNT JR.
GOVERNOR

EXECUTIVE ORDER NUMBER 113 MERIT-BASED HIRING PROCESS

WHEREAS, the State of North Carolina has a responsibility to provide efficient and effective services to its citizens with a productive and professional state workforce; and,

WHEREAS, the citizens and the state government workforce deserve strong assurances that skills, knowledge and merit are the basis for state government hiring decisions, not political patronage; and,

WHEREAS, there is a pressing need to reform the state's personnel system with a merit-based hiring system designed to bring only the most-qualified people into state government;

NOW, THEREFORE, by the power vested in me as Governor by the laws and Constitution of the State of North Carolina. IT IS ORDERED:

Section 1. Policy.

By October 15, 1997, each State cabinet agency shall design a process for the recruitment and selection of the most highly qualified candidates for employment based upon specific job related knowledge, skills and abilities.

Section 2. Administration.

The process shall ensure that candidates selected best meet the needs of the agency. The selection process shall be administered without regard to political affiliation or influence.

The process designed by the agencies shall be submitted to the Office of State Personnel for review and to the State Personnel Commission for approval. All agency recruitment and selection processes shall:

- a. Comply with all existing state and federal laws, policies and rules governing personnel actions;

- b. Ensure full and fair consideration of all citizens without regard to race, religion, color, creed, national origin, sex, age, disability or political affiliation/influence; and.
- c. Comply with good human resource practices and with any procedural guidelines designed by the Office of State Personnel to implement this Executive Order.

Section 3. Agency Plan.

The plan shall include standard elements of a recruitment and selection process including but not limited to:

- a. Pre-recruitment and recruitment activities:
 - (1) assess need for position;
 - (2) assess responsibilities and level of position;
 - (3) identify the specific knowledge, skills and abilities required;
 - (4) determine recruitment method, time frame and locations; and,
 - (5) develop and implement the recruitment plan.
- b. Evaluating and categorizing applications:
 - (1) applications evaluated and categorized by qualified independent individual or panel based on the specific knowledge, skills and abilities;
 - (2) identify the most highly qualified applicants, and send only that pool to the selection supervisor or manager for consideration;
 - (3) where tests are used to evaluate and categorize candidates, such tests shall comply with all requirements of state and federal law; and,
 - (4) consistent application among agencies when testing for the same or similar positions.
- c. Selection process based solely upon merit:
 - (1) consultation between the selection supervisor or manager and personnel professionals in utilizing a final selection process that is objective and based upon job related knowledge, skills and abilities;
 - (2) the selection supervisor or manager shall not have participated in the determination of the pool of most highly qualified applicants;

(3) successful applicant must be selected from the pool of most highly qualified applicants; and,

(4) the selection process shall appropriately consider all existing state and federal laws and rules applicable to the selection.

Section 4. Duties of Office of State Personnel.

The Office of State Personnel shall provide guidelines to agencies in designing a recruitment and selection process that selects employees based upon the process outlined in this Order. The Office of State Personnel shall monitor agency compliance with this Order.


Section 5. Duties of State Personnel Commission.

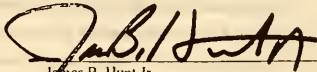
The State Personnel Commission shall review for approval all recruitment and selection processes that comply with:

- a. Provisions of this Order;
- b. Existing federal and state laws and rules;
- c. Any procedural guidelines designed by the Office of State Personnel; and,
- d. Good human resource practices.

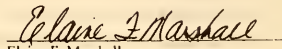
This order shall be effective immediately.

Done in the Capital City of Raleigh, North Carolina, this the 12th day of June, 1997.




James B. Hunt Jr.
Governor

ATTEST:


Elaine F. Marshall
Secretary of State

State of North Carolina



JAMES B. HUNT JR.
GOVERNOR

EXECUTIVE ORDER NO. 114 EXTENDING EXECUTIVE ORDERS

By the power vested in me as Governor by the Constitution and laws of the State of North Carolina, IT IS ORDERED:

The following Executive Orders are extended two years from the effective date provided below:

Executive Order No. 1, North Carolina Board of Ethics.

Executive Order No. 2, Small Business Council.

Executive Order No. 6, Entrepreneurial Development Board.

Executive Order No. 10, Quality Leadership Awards Council.

Executive Order No. 11, Governor's Council of Fiscal Advisors.

Executive Order No. 15, Coordinating Committee on the Americans with Disabilities Act.

Executive Order No. 16, The Geographic Information Coordinating Council and The Center for Geographic Information and Analysis.

Executive Order No. 17, North Carolina Emergency Response Commission.

Executive Order No. 21, Local Government Partnership Council.

Executive Order No. 35, Governor's State Employee Action Commission.

Executive Order No. 36, Smoking Policy Coordinating Committee.

Executive Order No. 43, North Carolina State Health Coordinating Council.

Executive Order No. 45, Governor's Initiative to Strengthen North Carolina Historically Black Colleges and Universities.

Executive Order No. 48, Concerning the State Commission on National and Community Service.

Executive Order No. 50, North Carolina Sports Development Commission.

Executive Order No. 51, North Carolina Film Council.

Executive Order No. 53, North Carolina Interagency Council for Coordinating Homeless Programs.

Executive Order No. 55, North Carolina -- Head Start Collaboration Project Advisory Council.

Executive Order No. 56, Governor's Task Force on Health Objectives for the Year 2000.

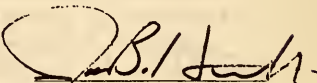

Executive Order No. 69, Governor's Council on Children, Youth, and Families.

Executive Order No. 75, Creation of Regional Councils and a Coordinating Council to Support Sound Environmental Management in the Albemarle-Pamlico Estuarine Study Region.

Executive Order No. 76, North Carolina Motor Carrier Advisory Committee.

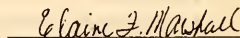
For purposes of continuity, this order shall be deemed effective the first day of January, 1996.

Done in Raleigh, North Carolina, this the 24 day of June, 1997.



James B. Hunt Jr.
Governor

ATTEST:



Elaine F. Marshall
Secretary of State

State of North Carolina



JAMES B. HUNT JR.
GOVERNOR

EXECUTIVE ORDER NO. 115
SINGLE STATE AGENCY TO SET STANDARDS
AND MODELS OF CARE FOR ALCOHOL AND DRUG PREVENTION
AND TREATMENT SERVICES

WHEREAS, alcohol and other drugs negatively impact many individuals, families and communities, with severe social consequences, and economic costs to the citizens of North Carolina estimated at approximately five billion dollars; and

WHEREAS, recent scientific research has demonstrated that alcohol and other drug problems are preventable and treatable, and has led to the development of a scientific basis for standards and models of care; and

WHEREAS, the citizens of the state will benefit from designation of a Single State Agency to establish standards and models of care for programs and agencies within the purview of the North Carolina Department of Human Resources;

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and laws of North Carolina, IT IS ORDERED:

Section 1. Establishment.

The Substance Abuse Section of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services is hereby designated as the Single State Agency within the Department of Human Resources to establish, promulgate and implement state-of-the-art standards and models of care for alcohol and other drug prevention and treatment services.

Section 2. Scope.

The standards and models of care established by the Single State Agency shall include, but not be limited to: screening and assessment, patient placement, continuum of

care, professional education, training, credentialing and staffing. The Single State Agency shall place emphasis on standards and models of care for special population groups. The Single State Agency shall develop, with the Department of Correction, an integrated continuum of care before and after incarceration.

Section 3. Implementation.

The Single State Agency shall have the responsibility to implement standards and models of care for alcohol and other drug prevention and treatment in the public mental health, developmental disabilities, and substance abuse services system, including area programs and contract agencies, working cooperatively with agencies within the Department of Human Resources. It shall have the specific responsibility of recommending revisions or additions to statutes and administrative rules through the Director of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services to the Secretary of the Department of Human Resources and the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services.

Section 4. Training, Evaluation and Monitoring.

The Single State Agency shall ensure training in standards and models of prevention and treatment in the public mental health, developmental disabilities, and substance abuse services system, including area programs, public and private contract agencies, and state institutions under the supervision of the Department of Human Resources. It shall be responsible for identifying and maximizing training and technical resources available from state and federal agencies. The Single State Agency shall evaluate and monitor compliance with these standards and models of care in the system through program performance and client outcomes.

Section 5. Interagency Council.

There is hereby created in the Department of Human Resources an Interagency Council on Substance Abuse Prevention and Treatment. The purpose of the Interagency Council is to promote an integrated coordinated effort on development of standards and models of care, to advise the Single State Agency on its activities, and to make recommendations to the Secretary of the Department of Human Resources on measures to

enhance substance abuse prevention and treatment. Membership shall include representatives of the Departments of Correction, Crime Control and Public Safety, Public Instruction, the Divisions of Motor Vehicles, Public Health, Youth Services, the Governor's Commission on Substance Abuse Treatment and Prevention, and the Administrative Office of the Courts. Membership shall also include members of the North Carolina Substance Abuse Federation to represent advocacy and professional organizations. The Governor shall appoint the members of the Interagency Council after consultation with the various agency heads, the Chief of the Single State Agency, and the Secretary of the Department of Human Resources. The Interagency Council shall be chaired by the Chief of the Single State Agency or the Chief's designee. The Interagency Council shall meet at least quarterly or upon the call of the Chair.


Section 6. Reporting.

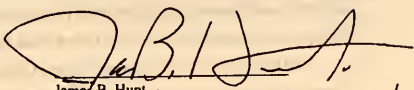
The Chief of the Single State Agency shall prepare an annual report of the work of the Single State Agency, and, after review by the Director of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall forward the report to the Governor through the Secretary of the Department of Human Resources.

This Order is effective immediately and shall remain in effect until rescinded.

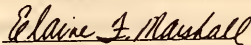
Done in the Capital City of Raleigh, North Carolina, this the 3rd day of July,

1997.




James B. Hunt Jr.
Governor

ATTEST:


Elaine F. Marshall
Secretary of State

State of North Carolina



JAMES B. HUNT JR.
GOVERNOR

EXECUTIVE ORDER NO. 116 JUVENILE JUSTICE PLANNING COMMITTEE

WHEREAS, the Executive Organization Act of 1973 established the Governor's Crime Commission; and,

WHEREAS, North Carolina General Statutes § 143B-480 creates the Juvenile Justice Planning Committee as an adjunct committee to advise the Governor's Crime Commission on matters referred to it which are relevant to juvenile justice; and,

WHEREAS, pursuant to North Carolina General Statutes § 143B-480, the composition of the Juvenile Justice Planning Committee shall be designated by the Governor through executive order; and,

WHEREAS, the federal Juvenile Justice and Delinquency Act of 1974, as amended, requires states to establish advisory boards to administer juvenile justice and delinquency prevention grants from the United States Department of Justice; and,

WHEREAS, the Juvenile Justice Planning Committee, which is also known as the Juvenile Justice and Delinquency Prevention Committee, is ideally suited to serve as such an advisory board consistent with federal law.

NOW, THEREFORE, by the power vested in me as Governor by the laws and Constitution of the State of North Carolina, IT IS ORDERED:

Section I. Membership Composition

The Juvenile Justice Planning Committee shall consist of no more than 33 members appointed by the Governor. The membership shall be consistent with all federal requirements regarding the composition of advisory boards which administer juvenile justice and prevention grants from the United States Department of Justice. Terms of

each member shall be two years as provided in North Carolina General Statutes § 143B-480; provided, however, that the Governor may remove any member at any time for misfeasance, malfeasance, or nonfeasance or if necessary to ensure continued compliance with federal requirements.

Section 2. Chairman.

The Chairman of the Juvenile Justice Planning Committee shall be designated by, and shall serve at the pleasure of, the Chairman of the Governor's Crime Commission.


Section 3. Administration of Federal Grants.

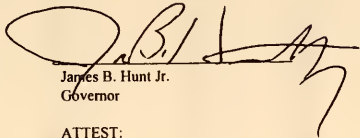
The Juvenile Justice Planning Committee shall serve as North Carolina's advisory board for purposes of administering juvenile justice and delinquency prevention grants from the United States Department of Justice.

Section 4. Duration.

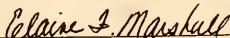
This executive order shall be effective immediately and shall remain in effect until rescinded.

Done in the Capital City of Raleigh, North Carolina, this the 21st day of July, 1997.




James B. Hunt Jr.
Governor

ATTEST:


Elaine F. Marshall
Secretary of State

NUMERICAL INDEX TO SENATE AND HOUSE BILLS

1997 GENERAL ASSEMBLY REGULAR SESSION 1997

Ratified Number refers to the Session Law Chapter number except when preceded by an R, in which case it refers to the Resolution number

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439	419	660	387	886	520
441	470	667	306	891	174
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457	273	683	445	910	297
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